THE

WORKS

OF

JEREMY BENTHAM,

NOW FIRST COLLECTED;

UNDER THE SUPERINTENDENCE OF HIS EXECUTOR,

JOHN BOWRING.

PART XXI.

CONTAINING

CONCLUSION OF MEMOIRS OF BENTHAM,

BY JOHN BOWRING;

AND

COMMENCEMENT OF GENERAL INDEX.

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PART XXII.

CONTAINING

THE CONCLUSION OF THE GENERAL INDEX;

AND

AN INTRODUCTION TO THE STUDY OF BENTHAM'S WORKS,

BY J. H. BURTON, ESQ., ADVOCATE,

ONE OF THE EDITORS OF THIS EDITION.

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MEMOIRS

AND

CORRESPONDENCE

CHAPTER XXIII.

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In sending to La Fayette that portion of the Constitutional Code, entitled Defensive Force,* for his approval, criticism, and correction, Bentham writes:—

BENTHAM TO LA FAYETTE.

(Extract.)

"*August* 15, 1828.

"On this occasion, my principal object has been to render the condition of the subject many, among the military, and under them that of the non-military, as comfortable and desirable as the nature of the case will admit. With a view to late Spanish America, (in which country, so far as they go, such of my works as have been edited in French by Dumont; are the only subjects of reference, having all of them been translated into and published in Spanish,) the one here in question is translating into that language, and about half the quantity of the English impression is already in print, with copies of it in Mexico. At different times my friends here have heard, from the Creole diplomatists here, that a young man of the higher orders *there*, is not regarded as having received a course of instruction suitable to his condition, unless he has gone through those same works. What the degree of sale of the Spanish edition is, may be learnt from Bossange Frères, by whom they have been successively published. These things I mention, for the purpose of clearing myself, as well as I am able, from the imputation of unwarrantable presumption, by endeavouring to waste such time as yours in an occupation not worthy of it.

"As to myself, I am somewhat younger than I was, when, as far as a troublesome complaint allowed, you saw me happy at Lagrange. The gloom in which the complaint involved me, has since been dissipated by cure. Felix Bodin, who for some weeks has been ocular witness of the difference, will, I should hope, ere this, if you have seen him, have given this evidence in my favour.

"The rose truniere, *alias* Rose de Syrie, about which I gave you so much trouble, turns out to have been nothing but an accidental variety of our common English holly-oak, which, and in greater perfection, I had already. But it was to the sentimental association that the flower I saw there was indebted for the principal value it possessed in my eyes. The race sprung from Lagrange is accordingly distinguished, and preserved distinct with religious care, and shown with corresponding pride

and vanity to all visiters capable of appreciating it. I shall not forget your picture of human felicity: scene, the United States—drawn first in English, then in French, for the edification of the Jesuit-begotten imps, to whom it was what a spout of holy water is to their best friend the devil. Whenever, for the first time, your name is mentioned here by a visiter, out that same picture comes of course. Had the thing been possible, I would give no small price for a copy of it taken in short-hand."

"*August* 18, 1828.

"Now that I have pen in hand,—a duty which, unpleasant as it is, I cannot shrink from,—is to inform you of what the most intelligent friends of good government in general, and in France in particular, say here of the existing accusation of the French ministry. What is said is, that it amounts to nothing, and forms not any substantial and warrantable grounds for punishment, being composed exclusively of a tissue of *vague generalities* in a declamatory style, unsupported by any *specific article of charge;* that the only part which, upon the face of it, bears anything of this last-mentioned character is, that which concerns the opening of letters at the Post-office; and that in this case the charge is deficient in respect of the precision necessary to give support to conviction upon substantial and tenable grounds.

"In this opinion it is proper that I should at the same time mention, that nothing of mine is comprised, my time not admitting of my obtaining any approach to an adequate conception of it. I have kept my mind turned from the subject altogether.

"In this respect *our* articles of charge, as contained in the accusations called *Impeachments*, in and by which the functions of *Judge* have been exercised by the House of Lords, and those of *Accuser* by the House of Commons, might, in the character of models, or, as the term is, *Precedents*, afford some instruction. I may, perhaps, before this letter is closed, be able to procure a list of the most apposite and recent of these impeachments, with references as to the publication in which they may respectively be seen.

"With one observation more, which is my own. On hearing read, (for it is only by my ears that I can read any such small print as that in newspapers,) on hearing read a short paragraph relating to the mode of proceeding on this occasion, it appeared to me that application made from the Chamber of Deputies for documents to serve as evidence (*preuves*) to ministerial offences, had experienced refusal. This same refusal presents itself to me as being a flagrant violation of the spirit of your Constitution, if the Charter can be called a Constitution, and that Constitution has any spirit in it—as flagrant a violation of that spirit, as well as of one of the most incontestable principles of justice as can easily be conceived. Thus much as to the *spirit:* as to the *letter*, for the reason above-mentioned, I have refrained from taking cognizance of it."

In introducing Colonel Leicester Stanhope to J. B. Say, Bentham says:—

BENTHAM TO J. B. SAY.

(Extract.)

"*9th September*, 1828.

"Well then, now for his claims to such distinction; though *I* have not *time* (not to speak of *yours*) for more than a small part of them. The services rendered in British India to the East India Company by the late *Marquis Hastings*, (in so far as conquests costing more than they produce are services,) —services, more extensive than were ever rendered before by any one governor in that part of the world,—are matter of notoriety. Marquis Hastings was a lord, like other lords. Two private secretaries he had, one for military affairs, *Colonel Young*,—also an intimate friend of mine,—a man of most transcendent worth, in respect of morality, intellectuality, and active talent,—uniting the accomplished utilitarian statesman with the man of letters, the mathematician, &c., &c.,—and this Stanhope: in these two men, those, who were in the way to be informed, have seen the real authors of the so-brilliant successes to which the *Marquis* gave his name. Stanhope is,

moreover, a highly distinguished Philhellene: of his services in that cause, in that unhappy country,—services, like all others that have been expended there, unhappily so unavailingly,—his interesting work on Greece, among other things, contains some particulars. But here I must cut short. He is one of the ten or eleven sons of the Earl of Harrington, Captain of the King's Body Guards, Governor of Windsor Castle, &c., &c. Of his three sisters, one is married to the premier peer of Ireland—the Duke of Leinster, another to the heir-apparent of the English Duke of Bedford. Abstractedly considered, La Fayette would not like him the better for this, any more than you and I. But, considering that, notwithstanding all this, he is as thorough a Radical as the best of us, here you see is no small merit. In a letter I gave him once to Dumont, I spoke of the disadvantage he labours under, in respect of birth and parentage; adding, with equal candour and discernment, the observation that this was no fault of his,—he could not help it. Dumont received this *tout bonnement:* he took my illustrious friend for a bastard, or something of that sort; and, for aught I know, received him accordingly.

"Know you anything of Arthur O'Connor,—an Irishman,—Lieutenant-general (at any rate so he was in Buonaparte's time) in the French service? He was at the head of the Irish Rebellion, anno 1798. He has an estate, of between £3000 and £4000 a-year, in Ireland: retaining it still, because Lord Castlereagh, of blessed memory, could not come at the evidence necessary to get it from him. He is married to a daughter of the Marquis de Condorcet, with whom he has a fortune of £2000 a-year,—the Philosophic Marquis, who was a retainer of D'Alembert, and had not a *liard*, having married a rich wife, anno 1813,—O'Connor, though made a Lieutenant-general by Buonaparte, had not seen him for some years. On the commencement of Buonaparte's reverses, O'Connor called on him, and said, You are an emperor: I, as you well know, am a republican. I would not, therefore, seek to obtrude myself: but now, under existing circumstances, I thought it might not be displeasing to you to hear, from my own mouth, that my fidelity, respect, and gratitude continue unimpaired. Buonaparte shed tears, [once in the course of his reign; so (you know) did Plato.]"

LA FAYETTE TO BENTHAM.

"*Lagrange, November* 10, 1828.

"MY EXCELLENT AND ILLUSTRIOUS FRIEND,—Since your last and much-valued communication, dated end of August, has reached me, I have received neither printed books, manuscripts, narrative, or visit from Monsieur Roy or Felix Bodin. It is true I have remained on my farm at Lagrange, and have devoted only a few, say as many, hours as were requisite to improve my mind by your enlightened and philanthropic letters, and to cheer my heart with the testimonies of your esteem and friendship. Not that I think my observations might be useful to you. Besides the weight of correspondence, and a series of diversified duties which press upon me in a manner disproportioned with the length of the day, I am too old and rusted a soldier to be so serviceable as any of your more recent military men, excepting, perhaps, in those general ideas when the republican citizen takes the lead of tactics, and at that more lofty point of view you have nobody to consult.

"The baneful emulation for standing armies had, from the reign of Louis XIV., prevailed in Europe, small powers striving, like the frog in the fable, to imitate their betters. When the Revolution of '89 roused and armed a great nation, to the institution of the National Guard of France, upon which Mr Comte has lately published an interesting book, were owing the first successes against the counter-revolutionary coalition, and after the imperial despotism, neglecting, or rather fearing, the principle of an armed organization of the people, depended upon its own genius and the powers of a numerous and admirable regular army, whose superiority was confessed by Britain, and attested by victories. You have seen the almost invincible host and omnipotent Napoleon repelled by a popu-

lar insurrection of Germans; the fate of your gallant troops, inured to the trials and dangers of the Spanish war, in their attack upon the hasty lines of New Orleans, defended by an American militia, has been a matter of European wonder. Yet, when in the Chamber of Deputies we ask, not for the dissolution of the standing army, but its reduction within proper bounds, so as to form a regimental nucleus for larger importations in time of war, when we insist upon limiting the conscription time to three years, under the colours, and a Lancastrian primary education, and three years on furlough—so that young men, when they are taught the use of arms to repel an invasion, do not lose the destination of their future life; when we consider standing troops as the vanguard of an armed nation, and call for a general system of national guards, naming their own officers,—which, in countries where the government is not, like in the United States, the people itself, appears to us a necessary condition, even for the maintenance of discipline,—we are opposed not only by the prejudices, remembrances, and counter-revolutionary hopes of the *ancien régime*, but by imperialism, militarism, and wilful forgetfulness of men, many of whom, had they not found in the National Guards a source of glory and advancement, might have remained in the inferior ranks of society and regular armies. To the federation of 1790, fourteen thousand deputies, duly elected, were sent by upwards of 3,000,000 of National Guards. The militia of the United States amounts to 1,100,000 men, equal to defend independence, liberty, equality, territory, and legal order, against a coalition of the rest of the world.

"I thank you, my dear Sir, for your observations on the impeachment of ministers. Let me be allowed, as a disciple of the American School, to adopt the principles which limit the judgment of public men to dismissal from office and future incapacity, leaving it with the courts of justice to try them, as other offenders, by common law. In Europe it is not the case. On the greater part of the continent, a minister is responsible to his own master, and often to the master and mistress, wherever there is what is called a Constitution, (not a written Constitutional act, originating with the sovereignty of the people, framed by their special representatives, accepted by them, as it is practised in the United States, as we had introduced at the beginning of the French Revolution, but a series of precedents, chartered grants, the acknowledgment of rights made by royalty, on the presentation of privilege, as you have it in England; or a written Charter, acknowledging some rights, abridging others, denying many, among which, the first of them, the National right to make it:) under this mock Constitution, I say, the mode of impeachment of ministers includes the whole proceeding of the law. What is called popular representation accuses. Hereditary legislators become hereditary judges. The French charter has specified two offences, treason and concussion, which, indeed, extends far, if misadvising the king, or oppressing the king, is treason, and the misappropriation of public money is *concussion*: the sense of the Chamber of Deputies, after better elections, has secured their dismissal, the object being less their being brought to punishment, than of such men obtaining a farther removal of chances for the return to office. It is wished to effect the dismissal of administrative agents still supported by the court, which would be the result if a committee of inquiry were named by the house, an advantage which your Parliament has over our Chambers. This may, in some measure, explain the hesitation, *embroglio* and minorities for energetic resolutions, which you have justly remarked in the management of that affair. Your communications of English precedents cannot but be very welcome."

"Several packets have arrived since I last heard from the noble kind-hearted friend, of whom you have said she had the sweetest and strongest mind that ever was lodged in a female body: [Miss F. Wright] the singular part, suited, as you observed, to her singular character, may be misrepresented by people not well acquainted with the purity of her heart, the candour of her

mind, the enthusiasm of her philanthropy, the disinterestedness of her views, and the vivacity of her hopes; her talents, indeed, part of which evaporate in theories, of the certainty and utility of which she has not a doubt, might have been, I think, more efficaciously employed, even to promote her own humane purposes; but to know, to respect, and to love her, will ever be, in my sense, one and the same thing.

* * * *

"I am much obliged for the preference you are pleased to preserve in behalf of my Syrian *Rose*, although its intrinsic merit has not stood the proof of a more commercial-horticultural examination: sentimental associations are not strange flowers on the soil where she originated. There, they tell love tales: here, it has been consecrated to friendship, a friendship more cordially reciprocated.—Your affectionate friend."

Bentham, on occasion of Henry Hunt's attack upon O'Connell, wrote to him this anonymous letter:—

"I am not personally known either to yourself or to Mr O'Connell: but I am, and have long been, a sincere and most zealous friend of Radical Reform, —that cause which you and he espouse. Proportioned to my attachment to that cause, is my regret at the thought of the damage, which it stands exposed to sustain from this personal altercation between two so preëminently powerful supporters of it. In his letter, the vituperative matter (I am persuaded) cannot have damaged you in public opinion, in any the smallest degree. In your letter, likewise, the argumentative matter, I am equally persuaded, would have produced more good effect to the cause, and raised you still higher in the esteem and admiration of the readers, if it had been entirely divested of the matter of the same sort, which, though less in quantity and coarseness, it nevertheless contains. Along with this letter, I am writing one to him with the same object. The proper subject-matter of consideration, with a view to present practice, is, not what he *has been*, but what he *is* at present: and that is—the only man perhaps in the world, by whom, for many many years to come, Radical Reform, or any approach to it can be brought upon the carpet, with any the smallest chance of success. His *instruments* are the vast majority of the people of Ireland—his *operations*, by means of those same instruments, petitionings for Reform: for Reform in whatever shape, for a commencement, may be deemed to afford the most promising prospect of success. For the prayer of the petition, what I should prefer, is—the ballot: in the first place alone, without any other of the features. Why alone? Because, in Ireland, the forty-shilling freeholders compose the main body of his strength; and the ballot being their sole permanent security, against the option between slavery and starvation, the other features would, in comparison, be as nothing to them: and because, to my knowledge, there are several in the House of Commons, who would vote for the ballot, but would not vote for any adequate, if any, extension of the right of suffrage. If *that* can *not* be carried, still less would it be possible to carry Radical Reform *in toto*: on the other hand, suppose it carried, we should then push on with increase of strength. Now, then—suppose him to have got up a body of petitioners for the *ballot*? a body strong enough for the purpose of *appropriate and necessary intimidation*? think of the support it would give you, on the occasion of a speech from you, at a meeting of the Livery in *Guildhall*: whereas, without such a support, the finest speech that ever was or could be uttered, would be so much sound, and nothing more. And so, again, in meetings of the *Common Council*, of which it is among my ardent wishes to see you a member. He, in his part of the field, you, in yours—could you but prevail upon yourselves, or be prevailed upon, to forget, on both sides, the irrelevant matter in question, you might, on his arrival in London, act in concert, and with greatly increased effect.

"'No:' you may say—'he is insincere,' or '*he is fickle*, and he will back out again, as he has done already.' Well, then, for the purpose of the argument—be it so: still, the further he has

carried matters on in our track, *before* he has backed out, so much the better, for, so much the better shall we be able to do without him when he is gone.

"But my opinion of him, is—that at present, in his declared advocacy of Radical Reform, even in its complete extent, he is *sincere.*

"I cannot stay to give all my reasons. But some of them are these:—

"1. I remember when, several years ago, he brought upon the carpet Radical Reform, in its whole extent: making express reference to Bentham's Parliamentary Reform Catechism, or Radical Reform Bill, or both, I forget which. At that time he gave the matter up: how could he do otherwise?—no support could he find; to have persevered would have been, thenceforward, to render it impossible to make any part of the great progress he has made. In his place (I remember well) I should have done the same.

"2. Next, as to the matter which you have so powerfully brought in charge against him: and, in particular, the giving up the forty-shilling freeholders. At that time, I was witness to great difference of opinion between a number of intelligent men, all zealous Radical well-wishers to Reform—all of them completely—either unexposed to, or superior to, sinister interest in any shape. If I misrecollect not, I myself was for the giving up the votes of the men so circumstanced. Why? because, their condition considered, I could not, at *that* time, see any, the smallest probability of their doing as they *have* done. Nowhere but in Ireland could any self-sacrifice, in point of *numbers*, so extensive, or a thousandth part so *extensive*, have been produced: nor even *there*, without a sort of miracle: or even by miracles, for more than a time of *precarious* duration—a time of preternatural *excitation.*

"Abominable as the other conditions are, every one of them, to my mind—considering him as an Irish Catholic, (I myself am neither Irishman nor Catholic,) I know not how to regard him (I must confess) as blameable, either on the score of honesty or judgment, for being desirous of making these concessions, rather than lose *emancipation altogether:* emancipation in the other remaining shapes.

"Now, then, with this opinion, with what justice can *I* think ill of a man for taking the course which, without any personal interest in the matter, I myself took, or should have taken? Now, as to the *late* occasion:—On that occasion, he gave up the motion for *Radical* Reform, and submitted to the substitution of the word *Constitutional*, which, as you think, and as I think, means nothing at all. This submission he made. But why? for the same irresistible reason for which he made the former one, as above; because, either the motion of which the word *Radical* stood part, would have been carried *against* him, or, if carried *by* him, would have produced such a *schism* as might have left him in a state of comparative impotence. So much for the *motion:* but, as to *his own opinion*, he then declared, and has since repeatedly declared, that, by *Constitutional Reform, he* meant *Radical*—nothing short of it.

"Other passages in his political conduct there are, for which I cannot find any such justification: such was his adulation and prostration in regard to the king. But the failing belongs partly to his nation, and partly to his profession. The Irish are in extremes naturally; and lawyers, being paid for being so, are so habitually. But, since that time, he has had a most instructive course of political experience: and, according to my view of the matter, he has profited by it. He seems to me much *improved.*

"As to *you*, Sir, forgive the liberty implied in bestowing upon yourself that same commendation. Of late, I have had the pleasure of hearing it bestowed upon you, and without a dissenting voice, by many flowers of our Radical flock, whose sentiments and opinions in relation to you were, till of late, very far from favourable: and, amongst them even rivals: but such rivals, whom no opposition, on the ground either of interest or sentiment, could ever draw aside out of the path of sincerity and justice.

"To you, it is no unexampled course, to unite with men with whom you have had differences. Witness Mr Cobbett.

"I have never seen either yourself or Mr O'Connell. He knows not of my writing *this:* nor of my having any such thing in my thoughts: he cannot: for it has not been in them longer than this day or two.

"But I have some reason for thinking that I have some influence with him: and if, by an answer to this, you will express a disposition to come to an accommodation, and enter into an union with him, as above,—whatsoever influence I may have with him, shall for that purpose be employed. If you lay on me your injunctions not to let him know that any such disposition on your part has been manifested, those injunctions shall most punctually be complied with: but it seems to me it would afford a better promise, if you would *not:* for, at any rate, it is not with you that the proposal for an accommodation would, in this case, have originated: and here would be so much proof of sincere affection to the cause, and of good temper, of which *you* would have set the example: to *him*, all that would remain would be, to follow it: to follow the example set by *you*.

"I forbear giving you my name: it is not necessary to the production of the effect desired: and it might have the effect of loading with irrelevant matter, a business of such transcendent importance, which is already but too much encumbered with it. I flatter myself that, without discovering the name of the *individual*, your discernment will discover in the *sort* of person, one in whom, at any rate, for a purpose such as the present, the requisite confidence may be placed, without any such risk as need oppose a bar to it. A letter, directed to A. Z., at Mr Byfield's, stationer, Charing Cross, will come to hand.

"P.S.—I dread the appearance of another hasty and hot letter from O'Connell, before that which I am writing can reach him. Suppose any such letter to arrive, would it not be better to put it aside unread: at any rate, till you have seen what, if anything, the letter I am writing to him has produced?

COLONEL YOUNG TO BENTHAM.

"*Calcutta, September* 30, 1828.

"MY DEAR AND VENERATED FRIEND,—I failed not to send off to Rammohun Roy, my excellent friend the Brahmin, *his* portion of the package's contents and your letter to him; and he tells me, in a note, that he will endeavour, to the utmost of his ability, to write to you on the subject of your letter, and thank you for your notice of him. He is a very sincerely modest man—far too diffident indeed for the remarkable and *unique* station he fills among his benighted countrymen. His whole time almost has been occupied for the last two years in defending himself and his son against a bitter and virulent persecution which has been got up against the latter nominally—but against himself and his abhorred free opinions in reality—by a conspiracy of his own bigoted countrymen, protected and encouraged, not to say instigated, by some of ours—influential and official men who cannot endure that a presumptuous 'Black Man' should tread so closely upon the heels of the dominant white class, or rather should *pass* them in the march of mind. Rammohun Roy, after an arduous and prolonged battle through a gradation of tribunals, has at length, by dint of talent, perseverance, and right, got the better in the last resort; but the strife, and the magnitude of the stake, and the long despair of justice, have shattered his nerves and impaired his digestion and bodily health, and his energies of mind. It is now over, and I hope most fervently that he will recover himself again. Not only has he no *equal* here among his countrymen, but he has none that at all *approach* to equality, even among the little 'sacred squadron' of disciples whom he is slowly and gradually gathering around him in despite of obstacles from his own and our people, which no one can rightly appreciate who has not seen and felt the difficulties which the condition of society

here opposes to a reformer, and, above all, to a native reformer. But he perseveres, and does make a *distinct* and visible progress, slow as it is—very slow! It must increase in a geometric ratio, if he is only spared long enough to organize the elements he is gathering together of resistance to superstition and fanaticism, religious and political. His main efforts are directed, and judiciously so, to the primary step in the process of amelioration—of throwing off the yoke of priesthood and of *caste*. The diabolical genius who devised the separation of Hindoos into orders, who are cut off from all social and intimate connexion of what may be called a *domestic nature* with each other, set at work an instrument complete and effectual in its operation for the political as well as the religious prostration of mankind. Where men may not dwell with each other in domestic association—where they cannot eat or drink, intermarry, and intercommune together, because of difference of tribe and privilege—where this evil has been fixed and imprinted by many centuries of habitual acquiescence, and under horrible penalties of excommunication—where such is the frame of society, how can men combine for any useful purpose of improvement or resistance? No wonder that the Hindoos have always been enslaved and oppressed when they are thus effectually divided! Till these barriers can be weakened or broken down, *nothing* can be done *by* them, or perhaps for them. It is against this anti-social element of Hindoo society that Rammohun Roy directs his quiet—his secret—but his persevering endeavours; and by avoiding any public alarming of the Brahminical and higher orders of his countrymen—and, I may add, of our own jealous aristocracy of colour and of place, he is obtaining the slow but distinct progress to which I have adverted—he is gathering round him a secret society of Hindoos of various castes, whom he persuades by degrees to associate, and even eat together at his house: Those who go beyond this *awful* line of demarcation can never recede; that is, the *higher* orders (and he is himself of the very highest caste) of Brahmins, and others, who are *committed* by the act of degradation implied in domestic intercourse with inferior tribes.

"I fear I may have failed in impressing you with the same notions which I entertain, of the infinite importance of this line of conduct. As I have said before, one must have personal experience of the abominations of this *sort* of politico-religious aristocratical frame of society, to appreciate it. Without that it is natural that philanthropists, at a distance, should think Rammohun Roy wastes his time and expends his valuable life and labours in work of an inferior sort,—and you may fancy that he moves too slowly, and does not come forward with sufficient boldness, to strike at greater evils, and attack men and measures of a higher order. But to what end should he labour at such works if the ground be not prepared to receive the seed? As yet there are none or next to none fit to comprehend the more lofty imaginings which his master-mind can grasp, and on which he loves to expatiate in the confidential society of some three or four heterodox Europeans. But he is ploughing, and harrowing, and planting, and our 'after-comers', if *he* lives long enough, will see the fruits. It is strange, you will think, that such a man should be looked upon coldly, not to say disliked, by the mass of Europeans,—for he is greatly attached to us and our *régime*. Not that he loves our churches, or priests, or lawyers, or politicians; but because he considers the contact of our superior race with *his* degraded and inferior countrymen, as the only means and chance they have of improving themselves in knowledge and energy. But it is one of the thousand curses inflicted by the Company's *régime* in India, that nineteen in twenty, or rather ninety-nine in a hundred, of the only Europeans who are allowed to come to this country, are employés, civil or military, who resort hither to scrape up and carry away all they can, and as soon as they can, without heed, or care, or concern in the prosperity of India. A dominating race thus *encamped* in a conquered country, and an infinitesimally and small minority in numbers,

naturally looks with the extreme of jealousy on all improvements, physical and mental, of the Indigines, or even of their own mixed descendants; nor will it ever be otherwise till resort is free to all who can bring with them or obtain the means of supporting themselves, settling, colonizing, and amalgamating, and identifying themselves and their posterity with the natives.

* * * * *

"To the evil of general jobbing and general distrust, there is a remedy fully and universally applicable, — Public opinion. If independent Europeans were not kept out, and being here, if they could speak freely through the press, and were not liable to deportation at will, then there would be such a check on the proceeding of secretaries, and boards, and councils, as would deter them from jobbery and injustice. Then the supreme authority might safely and satisfactorily leave nine-tenths of its trumpery avocations to inferior functionaries. Then there would be *time* to legislate and improve, and, before all things, to codify, while our statute-book is yet manageably small, and our corps of the law have not yet maintained a strong and separate interest, powerful enough to put down all improvement! Publicity,—a free press would thus prevent our minds from stagnating, and our local government would gradually assume its proper functions, and would take much of its tone from the opinions of those it ruled. There would be time to do good.

"Lord William Bentinck seems very frank and plain, very inquisitive, and endowed with considerable sagacity; his temper is excellent, I hear. I think he will encourage the press, because he is honest and diligent; clean hands and clear head, 'tis not such who fear publicity. I think he will promote education, and do away the murder of women and children. I think he will admit natives to higher offices of trust, and do away the exclusion of black and coloured men from the administration of justice. He is the only man I have yet seen in power, who seemed to think as if he thought Patronage was not private property but a trust. Already he has delivered himself very considerably from the trammels of clique, and the bureau here, who usually possess themselves of a new comer, and never leave him till they bring him down to their own level, as opposers of all that is liberal.

"These are no slight *éloges*, but they are rather prognostics than predications.

"All happiness attend you, my venerable and dear master.—Yours affectionately and sincerely."

Bentham to the Duke of Wellington.

"*Queen's Square Place, Westminster,*
"12*th Dec.* 1828.

"Lord Duke,—Listen to me: your name will—ay, shall be greater than Cromwell's. Already you are, as in his day he was, the hero of war. Listen to me, and you will be what he tried to be, but could not make himself —the hero of peace,—of that peace which is the child of Justice.

"After subduing the three kingdoms, he attacked the army of lawyers. They repulsed him. They were too many for him.

"About sixty years ago I deserted from it, and have been carrying on against them a guerilla war ever since.

"I have got together a body, which is every day augmenting. I am now on the point of attacking them in force.

"The *materiel* of my army may be seen in the volume accompanying this, intituled, 'Justice and Codification Petitions.'

"On the opening of the next campaign in Saint Stephen's, my Commander-in-chief (a truce to his name for the present) will commence the attack. His baton, the Bill (styled the *Despatch Court Bill*) which I have prepared for him.

"Under him will serve some stout fellows, whom I am occupied in enlisting and training.

"But a truce to allegory. It is time to speak in plain language.

"Our whole *Judiciary Establishment*, with the system of *procedure*, self-styled the *regular*, by which it works, is one entire mass of corruption: fruits of it, depredation and oppression,

—both upon an all-comprehensive scale, —its proceedings have, from first to last, had these for its objects and effects. Mere illusion the so indefatigably trumpeted purity of it. In comparison of the plunderage made by it, trifling is that made by the most corrupt, whichever it is, of those whose corruption is most notorious. By the plunderage which they make, *they* are always more or less exposed to punishment. Of that which our Judges make, the whole mass is intrenched in impunity; and by Parliament itself, under their influence, the fortress has recently been made impregnable. I mean—by the Statute of the 22d July, 1822, (3 Geo. IV. c. 69,) by which the Judges are authorized to impose on the afflicted suitors taxes without stint, and put the money into their own pockets.

"Open the accompanying volume. To one of the pages you will find a keep-place paper pinned. A single glance will suffice to show you fourteen *charges*. By the unreserved confession even of practising lawyers,—lawyers high in practice,—high even in Mr Peel's confidence,—these charges are incontestably, every one of them, proved.

"The eyes of the people at large are fast opening, not to say already opened: opened to the slavery in which they have been so long held by lawyers. Soon will you hear the self-emancipated slaves, chorus upon chorus, in full cry for justice! 'Away,' say they, 'away with the *technical*, the unintelligible mode of procedure—the *regular*, as the so-monstrously-irregular chaos so falsely calls itself. Give us the only plain,—the only intelligible,—the only honest, —in a word, the *summary* mode. Give us the only mode employed by those who wish sincerely, seriously, and steadily, to give execution and effect to that rule of action for the effectuation of which this adjunct professes to be employed. Give us the mode employed in the *Small Debt Courts*. Give us the mode employed in the courts composed of *Justices of the Peace acting singly*, or in any numbers elsewhere than in Quarter Sessions. Give us the only mode employed where evidence is to be elicited—where information is to be obtained, by either House of *Parliament*, —the only mode, in a word, which is employed where a real desire has place to bring out 'the truth, the whole truth, and nothing but the truth.' Thus say already in numbers, and will say every day in greater and greater numbers, the people at large. But, to crown all, speaking, as I do, to the *Head of the Army*, *I* say—Give us the mode—the only mode—employed in and by *Courts-martial!*

"Yes! give us the simplicity, the honesty, the straightforwardness, of *Courts-martial*.

"Yes: look here, Duke! Here you are at home. Had you a military offence to *try*—had you a *dispute* to settle between *two* officers—would you be satisfied to let *five years* pass before so much as the *first* question put received an answer? Would the sound of a *word*—the word *equity*, or any other—suffice to reconcile you to an absurdity so palpable, so abominable—to every mouth that can gulp it down so dishonourable? But, if not, in what respect can such a delay, with the expense and lawyer's-profit for which it was created, be more conducive and favourable to *civil* than to *military* justice?

"No! the head of the army—in so far as it depended upon him—as often as a military wrong took place one moment, would not wait another moment before he applied the remedy.

"There sits Lord Eldon! for five-and-twenty years and more, to the ruin of so many thousands of families, head of the law. What says this, or any other head of the law, to the *five* years? Would he abate so much as a single moment of it? Ask him. Not he indeed.

"Think now of the difference! and—the cause of it—what is the cause of it? What but this:—The head of the army would be a ruined man—his army a ruined army—were he mad enough to *establish* any such matchless absurdity; or, though it were but for a moment, *permit* it to have place. But the head of the law, who not only permits it to

have place, but would be ready to faint at the thought of its ceasing to have place—in what way is *he* a sufferer by it? Instead of being so, he is, and to a matchless amount, a gainer by it. His vast, his needless, his useless, his most mischievous income, so many times as great as that of the head of the army, is mainly constituted by it.

"Theory! speculation! visionary! enthusiast! *Utopian!* Of words such as these is composed the only sort of answer which the opposers of Law Reform —the defenders of established turpitude —are wont, or can find, to make to such damning truths.

"Head of the army! I repeat the question. In any Court-martial that ever sits, would you have five years elapse before so much as the first question received an answer? Would you have every innocent man, who, by some untoward occurrence, had been brought before a Court-martial, *regularly* plundered of his last shilling before he received his acquittal? Well, then, if you would not, and forasmuch as you would not, you are as undeniably a theorist, a speculatist, and so forth, as *I myself* am.

"By the last returns, a sum, within a trifle of £40,000,000 was lying *ingulphed* in Chancery. By this time that sum must have been exceeded. By my plan, this vast sum would, within a trifle, be given to the right owners, instead of being, in so vast a proportion of it, divided by the lawyers amongst the lawyers, while the remainder remained in the gulph, ready to be drawn upon by them, as occasion offered.

"Supposing now, for a moment, this money given by you to those it belongs to! Behold, what a flood of gratitude! I, for my part, shall be in my grave: my soul the flattering unction will not reach. But you! you may still be where you are. Then will you, king-like, be anointed by it!

"So much for *procedure*—judicial procedure—the system of *operations* and *written instruments*, which *should be* employed, and *professes* to be employed, for giving execution and effect to the rule of action—the guide, provided by Government, for the conduct of individuals.

"Now for the rule of action itself.

"Turn now to the *articles of war*,—the *rule of action* for military men. Instead of this, or any other body of *really existing* law, composed of a determinate set of words, emanating from a body of men, by universal consent, authorized to make laws—to this visible and tangible rule of action, would you, if it were in your power, substitute the contents of a vast library, continually increasing, composed of self-contradictory wrangling, talking backwards and forwards—pages employed by dozens, scores, not to say hundreds—in pretending to settle the meaning of this or that single word, left still more doubtful at the end of the palaver, than it was at the beginning of it? matter, replete with the most contemptible *absurdities* and pickpocket *lies* under the name—yes, avowedly under the name of *fictions*: coming, every syllable of it, from a set of men, (the Judges,) not one of whom so much as pretends to any such right as that of making law? but on the contrary, as often as called upon, abjuring it, even at the very moment when employed in spinning, spider-like, out of their own bowels, this same spurious matter to which they give the force of law?

"Instead of the articles of war, put into every military man's hands, suppose a porter's load of that same lawyer's trash laid upon his back, how would he know in what manner to conduct himself? how would he know in what manner to save himself from being shot? Instead of the *words of command* spoken, suppose so many dissertations, of the length of so many chapters of Blackstone's Abridgment, put, one after another, into his hands, with a lawyer placed beside him, ready, upon receipt of a few guineas, and not otherwise, to tell him the meaning of it: this supposed, after how many years of training, in this mode, would he be found (think you) in a condition to face the enemy?

"A *Law Reform Association*—a '*Noble Army of*' Reformists, some of them '*Martyrs*'—an army of this sort

I am raising: a *Legion of Honour* with members for *Grand Crosses.* There, if you will head it, will be a tower of defence to you: a support from without doors. Ere long you will see it in the field. Will you refuse the command thus offered? Instead of accepting it, will you openly throw your shield over the now so-completely-exposed turpitude of this established and still continued system of pillage and oppression, under the mask of justice; or (what will be the same in effect) will you remain neuter and inoperative?—Forbid it, honour! forbid it, justice! quoth your sincere well-wisher," &c.

BENTHAM TO DANIEL O'CONNELL.

"*Q. S. P.*, 15*th February*, 1829.

"*Dear, honest, supremely public-spirited, truly philanthropic, consistent, persevering, self-devoting Friend!*—

"I have seen Bowring. O'Connell needing '*introduction*'!—what a joke! And to whom?—to a queer old hermit, half gone in dotage, sinking through it into the grave!

"Enclosed you have here your second '*Brief:*' *not*, indeed, in *Pimlico-order*, (as our phrase says,) though so near to the Bird-cage Walk into which Q. S. P. looks, (being contiguous to Pimlico and the new Palace;) but, however, in such order as will serve the purpose—I mean of acceleration: these *proofs* being sent *de bene esse*, till superseded by a completed copy.

"So, as to the 'Abridged Petition,' spoken of in the herewith-sent advertisement, it could not accompany its lengthy, '*full-length*' precursor: but will follow it, before your leisure, (not to speak of *patience*,) has been long enough to carry you through the aforesaid long one.

"As soon as it *has*, *serve* me with *notice*—name your day—all other engagements vanish. As late as half-after seven, for the sake of maximizing my *writing-time*, is the time, not before, which my dinner (*tête-à-tête* it will be) usually finds itself on table: but if it does *not* suit you, name yours, and the other vanishes: if it *does* suit you, at ¼—a quarter before the half-hour—for the sake of circumgirating the Hermitage,—come to the embrace of

"JEREMY BENTHAM,

"Aged 81, if he outlives the present four-and-twenty hours."

Again—

"*Q. S. P.*, 25*th February*, 1829.

"LIBERATOR OF LIBERATORS.—Herewith you receive, in print, the proposed Petition for Codification. Item, the proposed Petition for Justice at full length.*

"Not yet completed is the proposed Abridged Petition for Justice. I hope and believe another week will not have passed away, before this is likewise completed—meaning the writing of it: for completed the printing of it will scarcely be, even then.

"Of the use expected from the Abridged Petition, the advertisement gives some account.

"Besides curtailments, there are additions in it: want of conciseness will, I hope, be found compensated for by amelioration.

"As we can see one another so seldom, and to both time is so precious, better we should not meet till you have the *tout ensemble:* special cause of exception excepted.

"A primary auxiliary power has presented itself to me, and its assistance engaged. But this, too, will keep till we meet.

"I conclude, *more Romano*, for the present. '*Vale et me ama.*'

"P.S.—Cheering, in the highest degree, has been Bowring's information of your sacrifice of professional profit to universal benefit, in being, at any rate, in contemplation, and *on the cards.*"

BENTHAM TO THE DUKE OF WELLINGTON.

"*Queen's Square Place, Westminster.*
"22*d March*, 1829.

"ILL-ADVISED MAN!—Think of the confusion into which the whole fabric of Government would have been thrown, had you been killed; or had the trial of

* See these in the Works, vol. v.

you, for the murder of another man, been substituted in the House of Lords to the passing of the Emancipation Bill!*

"I told you I was your *well-wisher*. Even in the common form of a letter I never speak unadvisedly. I now prove myself so.

"The circumstance that induces me thus to put myself forward is this:—For the entire extinction of this most pestilential practice, I have a plan, of the success of which, I have little more doubt than of my own existence. It is grounded—partly on experience furnished by this country; partly on experience furnished by another country; partly on the attention I have, for between sixty and seventy past years, been paying to the springs of action in human nature; partly on the acquaintance I have made with the penal code, and the system of judicial procedure, as they are, and as they ought to be, in all their details.

"If there be that man upon the face of the earth, in whom self-sacrifice, and so much more than self-sacrifice, to no imaginable good purpose, are less excusable than in any other, it is yourself. In the first place, in your case, what symptom of deficiency in personal courage would be your utter refusal to engage with any man in any such contest? Yes: if, for the first time, you had just been taking in hand a pair of colours. In the next place, even supposing it conclusive proof of such an infirmity, would it have rendered you incompetent, or any other man competent, to conduct the business of Government? In what shape, either to yourself, or to your country, would any evil be produced by an imputation of that sort, comparable to that which would be produced by your sudden death?

"T'other day, O'Connell was with me. Amongst other things, he gave me his history in relation to duelling. About a dozen years ago, it happened to him to kill his man.† He declares himself, in private as well as in public, and (strange as it may seem to many of us) as far as I can judge, with sincerity, to be a believer in the religion he professes in public. Not without visible signs of emotion, did he speak to me of the catastrophe. The effect produced by it on his mind was (he said) such, that he made a vow, and that vow was—to make atonement for the transgression: and that atonement consisted in the determination never to engage a second time in the like contest; but to submit to any insult or indignity, how atrocious soever, rather than seek or accept of satisfaction in that shape. Yes: and to make this determination matter of general notoriety; and to this his determination he had hitherto maintained, and ever resolved to maintain, the most inviolable adherence.

"Not so much as five minutes had the report of the occurrence reached me in this my Hermitage, when I sat down to write the scribble, which, in the original, would not have been legible to you: in the meantime, what I hear is—that instead of being the challeng*ee*, which would have been too bad, you were actually the challeng*er*, which is still worse. Friends, forsooth!—How narrow must have been the views and minds of friends, by whom advice, with such effects in the train of it, could have been given!

"These friends—in name, profession, and appearance; to whom were they so in reality? To yourself, to the king, to Great Britain, to Ireland, to the human species at this present time? To the same species at any future time?—Put to each of them these questions: and take note of his answers.

"In the United States, I am neither unknown nor unheeded. The President, and the present Finance Secretary, were my familiar friends. Propensity to duelling is, in that country, the cardinal vice. In that country, still more than in Ireland, the *plague* in that shape *rages*. If I live two years, or at the utmost, three years longer, I shall be, in no small degree, disappointed, if I do not see the *plague* (as the Bible phrases it) '*stayed*.'

* In allusion to the Duke's duel with Lord Winchelsea on the 21st March.

† Mr D'Esterre, of the Dublin Corporation, who challenged Mr O'Connell for calling that body a beggarly corporation.

"For my own part, in former days, I thought I saw some benefits from it to mankind, and committed the mention of them to writing; and, if I misrecollect not, to the press.* On further consideration, I have arrived at the persuasion, that they amount to little, if anything; and that, at any rate, they are, in a prodigious degree, outweighed by the mischievous effects; of which I am prepared to give a list.

"Mere insensibility to danger of pain and death is a virtue which man possesses in joint-tenancy with the bull, the bear, and their challenger—the dog.

"Now then, if to personal and physical, you add moral courage, I will tell you what to do. Go to the House of Lords. Stand up there in your place, confess your error, declare your repentance; say you have violated your duty to your sovereign and your country; and promise, that on no future occasion whatsoever, under no provocation whatsoever, in either character—that of *giver*, or that of *accepter* of a challenge, will you repeat the offence.

"Here am I, leader of the Radicals, (in that character, at least, am I, and I alone, every now and then, spoken of,) leader of the Radicals, more solicitous for the life of the leader of the Absolutists, than he himself is! What paradoxes, what prodigies, has not the field of politics given birth to of late!"

I am sorry that I cannot find the Duke's answer to this letter: but it was immediate; for Bentham sent a rejoinder on the following day.

"*Q. S. P., 23d March*, 1829.
"*Monday Evening.*

"MY DEAR DUKE,—Opened this moment this note of yours. I must at you once more. I am an Englishman. More than that, I have my designs upon you. I want to make you do what Cromwell tried at, and found it was too much for him. I cannot afford to lose you. Your country remains plunged by you into a danger you seem not to be aware of; I am.

"This moment you present yourself to my mind's eye with a brace of bullet-holes,—not in the skirts of your coat, but in your body: dupe to some rascal, who has looked to it as a ladder to his ambition or a feast for his vengeance. If one is not enough, others may follow: this in any number.

"Think not this is mere fancy: for in aid of imagination, in comes memory. Three cases it presents at the same moment,—O'Connell once more; Colonel Burr's; and Target Martin's.

"First, as to O'Connell's. What I did not mention before is this. O'Connell was sure of his mark. He had made himself so in an odd way. In his part of the country reigns a commonwealth of dogs: their practice was to attack men on horseback, biting the horses' heels.

"Think not this incredible. A similar commonwealth had place years ago, and probably has still, at Constantinople. Anno 1785, it made war upon me there: fortune saved me. O'Connell travelled with pistols, and practised with them upon those dogs, till he became expert as above. Hence the contrition spoken of in my last.

"2. Colonel Burr's case. Colonel Hamilton stood in the way of his ambition. Burr determined to put him out of the way. He too had made himself sure of his mark. Not confession this, but boast. I had it from himself. Anno 1807, or thereabouts, he was my guest for months.†

"3. Target Martin's. John Wilkes got him christened by this name: the import you see already. In this Martin's case, it was an affair of *speculation*. How to use pistols, he had learnt from his target: whom to use them upon, from the case of St Becket, in Hume's History. George the Third was his Henry the Second.

"4. Another case comes in this moment. Adam's,—Lord Commissioner Adam's case. Shooting at a great man by his leave, then figuring away and making a friend of him. Speculation this in another shape.

"Speculations, such as they are, I

* See Works, vol. i., p. 378.

† See preceding vol., p. 432.

have likewise,—but, so it is, it has never happened to them to take exactly this turn. Should it ever, you see already how I should proceed, taking you to practise upon. Common Law offers me, as you will see, her license. When my target had holes enough through it, I should look back into the newspapers, and say to you, or of you, something in the style of what Lord Winchelsea said—'A brace of balls you would put into the skirts of my coat: another brace I should put into your body. Here am I, then, a great man; you a dead one. Now, then, for this my greatness, what should I have to pay? At the outside, the cost of a year's lodging in a comfortable apartment, in a handsome stone building called a prison, with a pleasant garden to it.' This punishment is what, as above, I call a *license*.

"With reminiscences such as these in his mind, could a man do otherwise than I have done, and am thus continuing to do? Had I not, I should, in case of your falling a victim, as above, to rage or speculation, read my own condemnation in my own Penal Code. In it stands a class of offences designated by the title of NEGATIVE. It runs through all the other classes. Omission to do something from the want of which comes an evil; such as is produced by this or that written act; in which way murder may be committed as surely as by sword or pistol. By omitting to administer food, a jailor, for example, has murdered his prisoner—a nurse her child.

"'England expects every man to do his duty.' This done, I have done mine. Whosesoever head any blood of yours may fall upon, one there is upon which none of it shall fall—and whom it is you once more see.

"P.S.—Respect for your time has substituted to a lengthy letter this abridgment. My social affections are warm: the promptitude of your attention had called forth the garrulity of old age."

Bentham had a box inscribed by him, "1829, *Laudatoria aut Exhilarantia*," in which I find this letter from O'Connell:—

"28*th May*, 1829.

"My revered master has given me great satisfaction by his 'Despatch Court.' Would it were instituted to-morrow! I return the entire manuscript: some portion I am unable to decipher; but I have read the rest, and derived great pleasure from the perusal. It must be—there must be a Despatch Court. There is a pressing and daily increasing necessity for such an experiment, and the experiment once made, every court will soon become a Court of Despatch. We must not, however, lose sight of the right of appeal. As a general rule, it must be preserved, though the experimental Despatch Court *may* be without appeal. No page. Blank is left for the uses of appeal.

"I have *consumed* some time struggling for my seat for Clare. I hope it is not time lost. I am certain it has enabled me to be, in disposition and from conviction, more independent of party of every kind in the House. I expect to be returned for Clare again. I expect it confidently. Now for Utility—Utility—Law — Church — Finance—Currency—Monopoly—Representation. How many opportunities to be useful!

"I leave this city for Dublin on Saturday morning. Let me have a line by the post, to say whether you can allow me to go to you at a quarter before seven on Friday the 29th, and to remain with you till eleven. You must, in that case, give me some fish, as I do not eat meat on Friday. Any one kind of fish, I am entirely careless which—I have a most orthodox dislike to every kind.

"I do most fervently hope that you will live to see the British Isles blessed with your Code. My humble efforts shall be most persevering to attain that most useful object.

"I will not express—indeed, I could not express—my affectionate veneration to you. It increases as the period when I can start forward in the race of legal utility approaches, and becomes more certain. Luckily, the New Chancery Bill and Justice of Peace Bill are postponed until next session. Much has been made of more untoward materials.

With the greatest respect, your to-be-useful disciple," &c.

General Miller to Bentham.

"*27th June*, 1829.

"I shall give you my opinion as to the best form of government for the new States of America, for the sake of obtaining, in return, the benefit of yours.

"Let us begin with Buenos Ayres, or the United Provinces of Rio de la Plata, which I consider one of the most important points of South America, on account of its position, productions, navigable rivers, and commercial capabilities.

"Soon after Rivadavia was appointed Secretary of State, (in 1821, I think it was,) he made the federal system the ground-work of his administration; and the flourishing state of affairs which ensued, goes to confirm my impression that federalism is, of all forms, the best adapted to the wants and genius of the natives of the provinces of the Rio de la Plata, if not of the whole of South America. The prosperity of Buenos Ayres excited the attention of the other provinces, and, I think, proves the soundness of their judgment; they successively sent in their voluntary adhesion, and they were admitted into the federative union.

"In 1826, Rivadavia was advanced to the Presidency of the Republic, when, most unfortunately, he could not let well alone. The system which had worked so well was discarded, and the spirit of innovation substituted the 'one and indivisible,' or, as they called it, the 'central' form of government; but *gaucho* sense would not tolerate the measure which deprived them of a positive good, nor *gaucho* pride brook the change which conferred on Buenos Ayres a palpable supremacy. Division arose, and the provinces severally withdrew from the federation. We have seen that fine portion of America retrograding from bad to worse, until it has become a question, whether a war of colour will be the fatal consequence of Rivadavia's grievous error. Where this horrid state of things is to end, is difficult to foresee; but it appears certain, to my mind, that Buenos Ayres might slowly restore the provinces to the federal bond by the re-establishment of a good government; but that she will never be able to conquer them by force of arms. Nor, indeed, ought she to wish it; for provincial jealousies and petty feuds cannot deprive her of the metropolitan precedency, which geography assigns to her, in the Argentine territories, and which might render her an emporium, like what Venice was in former days. Having said so much relative to Buenos Ayres, it is unnecessary to add much with regard to Peru, or any other of the States; for I have observed that a strong family likeness runs through the different Spanish-American nations as far as I have had an opportunity of observing them. Peru, under a liberal, steady, honest, economical administration, would soon be possessed of the elements of wealth, strength, and happiness. More than one Palmyra would probably be seen to arise in the midst of her arid and now tenantless deserts, and Lima might become a second Tyre. If the mines of Potosi could draw 180,000 inhabitants to one of the most barren of regions, can we doubt the power of the precious metals, the staple produce of Peru, reperforming a similar miracle, whenever human enterprise, prompted by the love of gain, shall be left uncramped by vexatious restrictions and oppressive misrule?

"I have sometimes been asked, if I thought monarchy suitable to the wants and wishes of the South Americans. To this question my answer has invariably been a negative. In this I am borne out by the untimely fate of Iturbide, and by the failure of the 'President for life'—that half-way-house sort of elective monarchy which was overturned in Peru and Bolivia, and rejected in Colombia. I do not mean to say that no monarchies can be established in South America. What I assert is, that no king can be forced, or force himself, upon the South Americans. There is scarcely a fortified town throughout the continent, and there is no aristocracy upon which to rely. The only way in which a monarchical form of government will again be adopted in these States, will be from some President—let us suppose in Chili, for the

sake of argument—rendering himself extremely beloved and popular; the people might then elect him king.

"Of the democratic forms, I give an unhesitating preference to the federal. It is upon this point that I should feel most happy to be favoured with your friendly instructions. Let them be plain, and suited to the capacity of an unlettered soldier of fortune, who may, perhaps, be placed in circumstances where his opinion may be called for, and where it may be listened to with some attention.

"In taking into consideration any legitimate system, as applicable to Spanish America, do not, I beseech you, lose sight of the facts that the people there must be counted as something; that standing armies are there peculiarly incompatible with lasting tranquillity; and that no government, however strongly fenced round by bayonets, can long stand its ground, unless it be the people's choice, and upheld by that support which is to be permanently secured only by justice and integrity."

José del Valle (*the President of Guatemala*) to Bentham.

(Translation.)

"*Guatemala, the 19th May*, 1829.

"Sir,—Want of conveyance, in consequence of the little intercourse between this country and England, has been the cause of my silence during the preceding months. I was not able to send my letters, and I had not the honour to converse through them with Mr Bentham. But your respected voice has reached me, through the medium of the works which you have written for the universal good of mankind. You, Sir, have multiplied yourself in them: you live in all civilized countries: you will live in all ages. A wise man is, of all beings, the one who most approaches the divinity which is omnipresent.

"I avail myself of the opportunity now offering itself in Mr T. Ackerman, by whom, to your metropolis, I have the pleasure of sending you a collection of the gold and silver coins of this Republic.

"Neither the coins of this country, nor those of other nations of the ancient and new world, are as I would wish them to be. In monarchical countries, they exhibit the effigy of the kings and their armorial bearings. In the United States, that of liberty and an eagle, with the device of the federal system—*E pluribus unum.* In the Mexican Republic, the cap of liberty and an eagle perched on a nopal, (the cactus, or cochineal feeding-tree,) with a serpent in her beak. In Central America, the tree of liberty, and five volcanoes, representatives of the five States which form the Republic. In the Peruvian, a female figure representing *Liberty*, and the armorial bearings of the city of Lima. In the United Provinces of the River of Plata, the *Sun*, symbol of the Union, and the cap of liberty. In Chili, a volcano emitting fire, a column supporting a small globe, above this a star, and, higher still, the word *Liberty*, &c.

"The other symbols of American Republics have the same defect, for there are diverse nations which have eagles, nopales, &c. In the pictures of serpents, suns, eagles, &c., I see a something like relics of ancient barbarism; and the cap of liberty appears to me an affectation, unnecessary where it (liberty) positively exists, and ridiculous, where it is only nominal.

"In all nations, which are not oppressed by tyrants or despots, there ought to exist a legal liberty. The symbol which represents it, might, in this case, be put on the coins of all constitutional governments; in which case, the application made of it, would be coextensive with the distinguishing character of the form of government which it is designed to present to view: and in each political State, to this generally applying, should be added a specially applying symbol peculiar to itself.

"I should like to see that, in monarchies and in Republics, the coins bore on the obverse side, an image representing Congress, Parliament, or Cortes; and on the reverse side, the bust of the king, or of the supreme chief of the Republic: that further, on the first be expressed the name of the Congress, Parliament, or Cortes, and the number of

deputies and senators that form it; and that on the second be shown the name of the monarch or respective chief of the nation.

"The coins would then partake of the august character which distinguishes the high powers. They would be precious monuments for the history of the constitutional epochs, and eternal opprobrium to the tyrants who seek to annihilate constitutional government, and to make themselves absolute.

"Another thought which strikes me at this moment: might there not be on the reverse side an image representing the two highest powers—the Legislative and the Executive; and on the other side the map of the Kingdom or Republic—upon a very diminutive scale.

"The map of a nation, would give to its coins the most unequivocal character of nationality. They would be more conformable to the spirit of the age, which is not like former ages—pleased with lions, castles, ladders, and apes; but, on the contrary, with everything that is positively useful, and adapted to the existing civilisation. It would inspire a taste for the study of the geography of the country, even down to the lowest class of the people.

"I do not know whether you, Mr Bentham, have ever turned your thoughts to the subject of coins—those thoughts which have been applied with so much utility to legislative science. If mine were worthy of your suffrage, this would afford me real satisfaction. If on the contrary, I shall at least enjoy that of having endeavoured at the improvement of what appears to me to be in want of it."

The following are extracts from Bentham's answer :—

BENTHAM TO JOSÉ DEL VALLE.

"*September* 8–13, 1829.

"Coins.—What you say on this subject shows the expandedness and expansiveness of your mind. It would, however, have been still more gratifying to me, to have seen it when applying itself to subjects on which its labours might have been employed in the production of effects, in which contribution to public happiness had been more determinate and unquestionable.

"First, as to exhibiting the outline of the territory of the State. This, by wars and treaties, would be constantly exposed to variation; and in case of cession, could be liable to excite painful comparisons and recollections.—Secondly, as to numbers of the members of Legislative Assemblies. These too, whatsoever be the number of the Assemblies of which the Legislature is composed, would be continually experiencing variations : naturally and generally in the way of increase—such variations have been experienced in England, in France, and in the Anglo-American United States, &c., &c.: I am inclined to think almost everywhere.

"Liberty of the Press, in the ordinary acceptation of the word.—So far, so good; but in that sense it may have place, and at the same time a state of things opposite to that looked for from it. Under every government, and in particular a democratical one, the principally effective literary instruments of good and evil are the periodical; and amongst the periodical, the most effective, those of which the recurrence is most frequent : the daily, more than the every-other-day papers; the every-other-day, more than the weekly; and so on. Suppose now, one such paper in existence, and no more, here the liberty would be a mere illusion; instead of useful, that paper might be worse than useless. First, take that which is the most natural supposition—this one paper edited by government, or under the influence of government. All truths by which indication is given of imperfections in the system of government, or misconduct on the part of the governors, are suppressed: all lies and bad arguments, tending to produce, on the part of the people, approbation of those imperfections, or that misconduct, or disbelief of their existence, are inserted; and all contradictions to those lies, and counter-arguments against, and refutations of those bad arguments, are kept excluded.

"Even suppose that, for a time, the

newspaper editor—this master of public opinion—is honest, and gives insertion to communications, which, on any of the above accounts, are unpleasant to Government. Of such a state of things, the duration will always be precarious. For the more active he is in this line of beneficence, the more troublesome will he be to the constituted authorities, and the stronger will be the interest by which they will be incited to gain him over at any price. Being thus gained over, he will not only be useless to the cause of the subject many, but worse than useless. Good, in the shape of reward, thus misapplied, does double the mischief that could be done by evil thus misapplied, in the shape of punishment. All that the fear of punishment could do, would be to restrain the man from serving the cause of the people; while hope of reward, besides producing that negative bad effect, might, in any degree, be productive of the positive bad effect of causing him to do positive disservice to the interest of the people.

"Even suppose him still honest and honest to the end, still by giving publicity to his own notions, to the exclusion of all others, he might lead public opinion astray to any degree; and would be sure so to do, to a more or less considerable degree, though without intending it.

"Now, then, how to obviate this evil, and reduce it to its lowest pitch: in one of the new words of my coinage, to minimize it. This is matter of no small difficulty; and, as yet, has never anywhere, that I ever heard of, been attempted.

"As to what is written in the person of the editor, there is no remedy: of this part the tendency will be such as by whatsoever motives he is inclined to make it. Against this partiality the only remedy is that which can be applied by other persons in the character of his correspondents. If matters can be so ordered that he shall stand bound to give place to observations in equal quantity made in opposition to his own, or those of any other writer upon the side which he advocates, this is as much as can be done. When Miranda, son of the celebrated General Miranda, with whom I was on intimate terms, went some years ago from this country, in which he was born and bred, to Colombia, I think it was—at that time Venezuela—to set up a newspaper in the English style, I drew up for his use a little plan, having for its object this species of impartiality and independence, as far as practicable. At so short a warning, I have not been able to lay my hands on it, or I would have sent it to you, or a copy of it,—if I succeed, you shall have a copy by the next conveyance. In the meantime, you will perhaps turn your thoughts to the consideration in what manner, as matters stand in your country, the problem may be accomplished.

"The King of France is determined to endeavour to reëstablish despotism. I have before me the words of a short but decisive conversation on the subject between him and the Duke of Orleans. This from a man who had it from the duke. The people are determined to resist the king; in which case, if *they* succeed, the Duke of Orleans will succeed to the crown: probably with an authority still more limited than at present. Here there will be a civil war, unless the king grows frightened and yields, which seems most likely.* A man is taking a lithographic copy at a press I have, of a pamphlet on the popular side, destined for dissemination in France. I believe this leaf will contain the last words of my long and miscellaneous epistle. Regard the length of it as a measure of the affection with which I am yours," &c.

The following is a list of editions of the Works of Bentham that had appeared in the Peninsula, transmitted for the use of Del Valle:—

In Spain, Dr Toribio Nuñez, dedicated to the Spanish Cortes (in 1820, printed at Salamanca) his Espiritu de Bentham, or the Social Science, founded on the works of J. B.

In 1821, Jacobo Villanova translated Bentham's Panopticon, in consequence

* This letter is dated, it will be observed, a little more than ten months before the events anticipated in it took place.—*Ed.*

of which the Cortes decreed that all the prisons of Spain should be in future built on the Panopticon plan.

In 1822, Dr Ramon Salas printed, at Madrid, a Translation of the *Traités*, in which, however, he has introduced other matter from the works of J. B.

In 1825, the Tratado de Pruebas Judiciales y Teoria de Penas Legales was printed at Paris, edition in 4 vols. 18mo, to be had at Bossange Frères.

In 1822, the Cortes of Portugal decreed the translation of J. B.'s works into Portuguese, at the expense of the nation.

O'Connell to Bentham.

"*Ennis, County Clare*,
"*30th July*, 1829.

"Benefactor of the Human Race,—I avowed myself on the hustings this day to be a 'Benthamite,' and explained the leading principles of your disciples—the 'greatest happiness principle'—our sect *will* prosper.

"I begin my parliamentary career by tendering you my constant, zealous, and active services in the promotion of that principle. You have now one Member of Parliament *your own*. Stay with us, my venerable friend, remain with us in person and in intellect for a few years longer at the least, and you will see the fee-system and the cobwebs of fiction destroyed—mere cobwebs, which catch the little flies, and allow the wasps to break through.

"I do most potently believe that the hour for successfully introducing a rational plan of procedure, and 'a Code,' is fast approaching. I have sent my Bentham's Library to my country-house, where I shall be able to spend six weeks of the 'long vacation.' There will be this advantage from the adjournment of justice till November,—that my zeal for Codification will be accompanied by more of knowledge, before I have the pleasure of seeing you again.

"Accept the assurance of my most unfeigned respect and admiration. My homage is the more sincere, for being capable of springing from one cause only, namely,—my conviction of your paramount utility to mankind; an utility which could never have existed, if, to the most clear intellect in the world, you had not added the perpetual and cheerful energy of continued perseverance.

"I intend to get up a *shorter* Codification Petition,—indeed, several petitions for 'Codification,'—that is, for the draft of a Code. . . .

"I think the Honourable House, as there is to be no expense but that of printing, will yield to my reasoning, or if not, to my *repetition*—not to say my teazing, and advertise, on your plan, for a Code.

"I write in haste to announce to you the return of 'your member.' You see you have the same property as a boroughmonger. I have the honour to be, with veneration, and let me add, affection, your faithful disciple."

Bentham to O'Connell.

(Extracts.)

"*Q.S.P.*, *25th August*, 1829.

O'Connell atavis edite regibus,
O et præsidium et dulce decus meum!—
. . . .
Quod si me *Domuum* vatibus inseris,
Sublimi feriam sidera vertice.

"Before me lies yours of the 30th last, dated the very day of your election: it was like a gulp of the intoxicating gas to me.

"I was projecting a long letter to you, reporting progress; but the receipt last night of a paper from *Bowring*, of which, what is on the other leaf is a copy, proved the necessity of an immediate communication, without a moment's loss of time."

"Colonel Jones, (late of the Guards,) a zealous Radical and Pro-Catholic, who is *agitating* against the Aristocratical Select Vestry System, has adopted the word *rents*, and projected rents for the purpose of buying seats in Parliament. He has got already between £1100 and £1200, he tells me; but I have no great expectation of success. I have put *petitions* in his hands, with a view to engage him to *agitate* for Law Reform.

"You have not, I am sure, forgot the project for sending forth *preachers* of Law Reform. Major Cartwright, by circuiting and preaching, (though in voice and manner a most feeble preacher,)

obtained petitions, with—I think it was not less than—1,200,000 signatures.

. "Real Property Inquiry Commissioners, original number five, as per their 'First Report': lately three have been added, though not yet publicly announced. I have from all of them—all eight—an engagement in black and white—an engagement to publish, without any reservation, whatsoever I shall address to them in such their quality. The correspondence is curious, and I think of sending it to the newspapers.

"Despatch Court Bill wants not much of being completed. Completed it assuredly will be, unless I am dead or disabled first, before the times are in readiness for putting it to use. My friend, Bickersteth, who, in his capacity of silk-gownsman at the Chancery Bar, is quite overwhelmed with business, approves of the bill without reserve, as far as it has gone, and will guarantee it against all imputations on the score of ignorance.

"If itinerant agitators go to preach Law Reform, and procure signatures, they should go in *couples*—an Irishman for eloquence, and to give statements of such law abuses in Ireland, as apply also to England: an Englishman, to obviate local prejudices; a fit Irishman, you would, I imagine, easily find:—but an Englishman——! there would be the difficulty!"

O'CONNELL TO BENTHAM.

(Extracts.)

"*Derrynane Abbey*,
"*22d Oct.* 1829.

"RESPECTED AND REVERED MASTER,—To begin with the beginning—I did get your half letter as I was leaving the Cork Assizes, and wrote a reply; but an accident caused it not to be sent, and then I had a thousand things to add—and then I determined to write fully when I was just about to open the winter's campaign.

"I give myself six or seven weeks here of comparative mental *inexertion*. This is the wildest and most stupendous scenery in nature—and I enjoy my residence here with the most exquisite relish. I have a pack of beagles with which I hunt on foot three days in the week. They are of the very best and most sagacious quality. I am in truth fascinated with this spot: and did not duty call me elsewhere, I should bury myself alive here. As to the remainder, the change of scene—of hours—of habits—of exercise—gives a new tone to my mind, and I leave this place with a new impulse, and with my mind new strung for reform and utility in every shape and form. To-morrow I spend, as my last day this season, in hunting. On Monday, I leave for Dublin—all for work—incessant work.

"I give you this sketch to show you why I have been less active in pursuit of useful change for the last six or seven weeks.

"My winter's campaign commences. My first duty is to discharge my debt to you.

"The History of the Catholic Association (Wyse's) omits that part of the struggle which is most interesting, and is most instructive,—I mean the working up of small means into mighty engines. The progress from political infancy, through political infantile squabbles, into something of youthful strength, and then into great manhood and vigour.

"This session—now or never, for Law Reform. *We must begin the first day of the session before the king's speech, if possible. No delay. No vacation.* The Law-despatch Court is independent of the Code. It is just what, in my judgment, ought to be brought on at once.

"I will be in London, please God, a week or ten days before the 'Honourable House' sits. I will take with me a great number of petitions for justice, speedy, inexpensive, and real justice.

"But it is not *now* practicable to send round in Ireland law-preachers—preachers of Law Reform. You can form no adequate idea of the present state of the public mind in this island. We are in the last stage of the politico-religious fever. I have been watching its symptoms, and permitting nature to take its course. Believe me, the patient will be soon well, and strong soon, and fit to teach a lesson to the nations on all

subjects of public amelioration. The Orange symptoms might easily be exasperated by irritation. It is left to disappear of itself; and is disappearing. You shall—you *will* hear of Ireland with pleasure, before the traffickers meet again in St Stephen's Chapel. I am much deceived, if Law Reform and Parliamentary Reform do not meet with powerful assistance from Ireland shortly—very shortly.

"I get the *Westminster Review* by post as soon as it is published. The triumph over the *Edinburgh* is complete. That controversy is terminated, unless the *Edinburgh* renews it. I am also an active agent for the circulation of the *Westminster*. Not one of the mercenary agents can be more zealous. Simply because I feel the value to public opinion of that work.

"I have no objection that you should show my letters to any person you please. I give you the most unlimited discretion on that subject, both for the past and future, including the present. I do this without any feeling of vanity; because I know, that a man, ignorant as I am, may possibly be the means of suggesting a train of thought, which may lead superior minds to objects of great utility. Do with my letters just what you please.

"I trust the American Republics will at length settle into peace. The number of selfish beings which their revolutions have produced, desirous of converting the popular struggles into individual advantage, is not creditable to them. But their materials for change were of the worst description; and to this, I verily believe, much of the conduct of Bolivar, which appears suspicious, is to be attributed. Look back, however, at his career, and behold what eminent services he has rendered to Liberty. It was his generous persevering ardour that, in spite of every motive to despair, enabled him at length to crush the Spaniards in Colombia; and thereby, to lay the foundation of freedom in other, and even very distant provinces. He first taught the natives that the Spaniards were not invincible. Then he established the perfect equalisation of civil rights amongst all castes and colours. Do not, I beg of you, give him up without sifting the evidence against him closely. His accusers, amongst his countrymen, are mean and selfish individuals, who cannot submit to the superiority of talent and virtue. Society is in its most discordant elements around him; and it may be difficult to confide power to an unformed, ignorant, *scattered* population. If I must abandon my reliance on the purity of Bolivar, I will shed a tear for poor human nature. But no: I venture to prophesy that he will live to have his patriotism and disinterested virtue recognised all over the world.

"I know General Miller, and think very highly indeed of him. I read the *historical* part of his work, and will seize the first leisure moment to read the remainder of it. I do entirely agree with you that he is a very interesting and highly-gifted man.

"My accident was much less serious than as represented in the newspapers. I was not for one moment insensible; but having been dashed violently against the ground, I was unable to rise for about one minute. In ten minutes afterwards, I was as competent to assist my brother, who broke his arm, as if I had not fallen at all. The terrors of the place too are much exaggerated: but why should I detain you respecting an incident which would be forgotten by myself, but that the papers have fabricated 'an article' on it; and what is to me really precious, that you have expressed so much of kind solicitude for me.—Believe me, I am most cordially grateful.

"I have read, or rather, am carefully reading your book on Judicial Evidence. It affords me the greatest satisfaction. But I must release you from this lengthened communication: let me first call on you for suggestions—say commands, as to my parliamentary career. If you think it right, I will begin with 'the Despatch Court,'—that is, the first or second day of the session: then the natural, as opposed to technical procedure—at least a petition on this subject: then an address to procure 'a

Code.' Every day I will have a petition on some one or more law-abuse. It seems to me, that it will be useful to have a talk on this subject almost every day. So many people have to complain of the expense and delay of the law, that thus stimulating the expression of public opinion cannot but be useful.—I am, with the sincerest respect, your zealous disciple," &c.

EDWARD LIVINGSTON TO BENTHAM.

"*New York*, 10*th August*, 1829.

"SIR,—I had intended to delay the request, that you would do me the favour to accept and peruse the Codes of Criminal Law which I am preparing for the State of Louisiana, until I could offer the whole system for your examination: but a delay has taken place of which you are the cause, in preparing the Code of Evidence; and my impatience to have a direct communication with you, has induced me, perhaps indiscreetly, to send you the parts of the system which have been printed, for consideration, together with the preliminary reports explanatory of their provisions. The Code of Evidence which is wanting to complete the system, was ready about two years since to be put to the press, when I heard of the publication of your 'Rationale of Judicial Proof,' [Evidence,] and I could not think of taking another step, until I had received all the lights I was sure this work would throw on the course I was pursuing. Notwithstanding my endeavours to procure a copy from England, I have, by some unaccountable fatality, been constantly disappointed, but have lately been fortunate enough to procure the only set I believe in the United States. I am now studying it closely, and already find more than enough to make me rejoice that I was not more precipitate in my publication. While at the same time I feel a pride in discovering that many of the provisions I had inserted, have received the sanction of your judgment.

"It is more than thirty years ago that, then representing this city in the House of Representation of the United States, I made an ineffectual attempt to mitigate the severity of our penal laws. The perusal of your works edited by Dumont, fortified me in a design to prosecute the subject, whenever a fit occasion should offer: it occurred about twenty years after, by my election to the Legislature of Louisiana, whither I had removed; and I used the confidence of that State, by offering them the system you will find in the accompanying package. It is now under the consideration of a Joint Committee of both Houses, and its fate will be decided in the course of the winter session. The favourable notice taken of the first report in England, and elsewhere in Europe, has had a considerable effect in predisposing the public mind to receive it.

"In laying before you this work, I offer you little that you have not a legitimate title to; for, hereafter no one can, in Criminal Jurisprudence, propose any favourable change that you have not recommended, or make any wise improvement, that your superior sagacity has not suggested.

"With the greatest veneration for your character, and the highest admiration of your useful labours, I am, Sir, your most obedient servant."

Dumont, the most distinguished of Bentham's disciples, preceded him, by a few years, to the grave. The announcement of this event was communicated to him by Dumont's nephew:—

(Translation.)

"*Geneva*, 4*th October*, 1829.

"The friendship which you felt for our excellent uncle, his attachment and admiration for you, imposes on his family the painful duty of announcing the misfortune we have just experienced. M. Dumont has been removed from us—removed most unexpectedly; and what adds, if it be possible to add, to our grief, far away from his family. He left us, a few weeks ago, full of health, for a journey in Italy. At Venice, a slight indisposition induced him to precipitate his departure; but, arrived at

Milan, the disorder assumed a serious character, and in a few days he died. If anything could lighten our loss, it would be to think that no sufferings accompanied his last moments, and that he slumbered away in the arms of the friend who accompanied him. Accept, Sir, the expression of the sentiments of respect and veneration with which the excellent man, for whom we mourn, has inspired us for your person."

A few days before his death, Dumont thus wrote of Bentham:—

(Translation.)

"What I most admire is the manner in which Mr Bentham has laid down his principle, the development he has given to it, and the vigorous logic of his inductions from it. The first book of the '*Principles of Legislation*,' is an art of reasoning upon this principle, of distinguishing it from the false notions which usurp its place—of analyzing evil—and of showing the strength of the legislator in the four sanctions, natural, moral, political, and religious. The whole is new, at least with regard to method and arrangement; and they who have attacked the principle generally, have taken good care not to make a special attack upon the detailed exposition of the system.

"Egotism and materialism! How absurd! Nothing but vile declamation and insipid mummery! Look into the catalogue of pleasures for the rank which the author assigned to those of benevolence, and see how he finds in them the germ of all social virtues! His admirable '*Treatise upon the Indirect Means of Preventing Crime*,' contains, among others, three chapters sufficient to pulverise all these miserable objections. One is on the cultivation of benevolence; another on the proper use of the motive of honour; and the third on the importance of religion, when maintained in a proper direction—that is to say, of that religion which conduces to the benefit of society. I am convinced that Fenelon himself would have put his name to every word of this doctrine. Consider the nature and number of Mr Bentham's works; see what a wide range he has taken in legislation; and is it not acknowledged, that no man has more the character of originality, independence, love of public good, disinterestedness, and noble courage in braving the dangers and persecutions which have more than once threatened his old age? *His moral life is as beautiful as his intellectual.* Mr Bentham passes in England, whether with justice or not I am unable to determine, for the chief, I mean the spiritual chief, of the Radical party. His name, therefore, is not in good repute with those in power, or those who see greater dangers than advantages in a reform, especially a radical reform. I do not pretend to give an opinion, either for or against, but it must be understood, that he has never enjoyed the favour either of government or of the high aristocracy; and this must guide, even in other countries, those who desire not to commit themselves; for Mr Bentham's ensign leads neither to riches nor to power."

In a letter to O'Connell of 29th October, Bentham speaks of "the public-house licensing system" as "a most maleficent source of corruption, oppression, and depredation;" and says, "Among your Parliamentary agenda will naturally be the extinction of it. But this will be included in the local judicatories." O'Connell answers:—

O'Connell to Bentham.

"*Merrion Square, Dublin,*
"*Nov.* 4, 1829.

"I found here, awaiting my arrival, a letter from my revered master. I hasten to reply, before I am entangled in the act of profession. My time now reckons by the minute; but did I count it by the dropping of my heart's blood, I would devote some of it to the man who has done more to ensure the destruction of abuses, and the establishment of common honesty, than any other human being I ever knew or read of.

"The Honourable House! shall hear the name of Bentham—a name which, it would seem, has been considered too harsh hitherto for 'ears polite.' I will,

if you approve of it, drive at once to the framing of the Code. No committee to cushion it, no reward to create contention, and excite patronage and favouritism. Your plan, simply printing at the public expense—the sentiment of glory and utility the only stimulants—you will live to see your work printed at the national expense, and I trust finally adopted: my humble name will, in spite of the sneerers, be found in some margin, or beneath the last page; and I too will have done the good work of facilitating right and justice, and abolishing perjuries and useless oaths.

"The public-house licensing system is really more surprising, if possible, than abominable. How John Bull can be so stupid a dolt as to submit to it, is portion, however, of that practical despotism which the jurisdiction of irresponsible Justices has established with an iron hand in England and Ireland, without responsibility or any that exists almost perfect as a mockery: and without appeal, the Bench of Justices, collectively and in detail, have made the people feel despotism in its worst shape—its emaciating consistency of oppression. But for collateral advantages in these countries, I would prefer to live under the simple tyranny of a Turkish cadi, to the endurance of the complicated oppression of an unelected, irremovable, irresponsible, *incorrigible* Bench of Justices of the Peace—all this they are in fact. This remedy comes within the immediate head of local jurisdiction.

"The King's Bench is the avowed accomplice of the crimes of the magistracy, but you catch my sentiments on these subjects, I will endeavour to avail myself of your accuracy and distinctness of mode of redress. From your faithful disciple."

Bentham was much distressed by some of O'Connell's attacks, of a personal and almost private character, by which he deemed he was damaging the cause of Reform and lowering his individual influence and reputation. He told me he had been considering how best to make an effort to check his excitable but most beloved friend, and he determined to write to him an anonymous letter, of which this is an extract:—

BENTHAM (*under the name of Phil-O'Connell*) TO O'CONNELL.

"*London*, 10*th November*, 1829.

"SIR,—This comes from a sincere admirer of you, and a zealous friend to the Catholic cause, so far as is consistent with the welfare of all besides.

"It is with proportionable grief that I read your *tirade*—your altogether undiscriminating tirade—against the *Liberals*, as contained in the *Morning Chronicle*. I flatter myself you will see that, in what I am about to say, my object is not to cast reproach upon you, or to cause an atom of unnecessary uneasiness in your mind, but merely to do what depends on me towards prevailing on you to abstain from such reproachful sallies in future.

"To the class of *Serviles*, or to that of *Liberals*, are generally recognised to belong all men with whom, on a political account, you have anything to do, even *Serviles*, those called also sometimes *Tories*, sometimes *Absolutists*. Under the denomination of *Liberals*, are commonly regarded as included as well Whigs as Radicals.

"*Absolutists* are all of them against you; and accordingly so are you, and of necessity, making unceasing war upon them. Under the head of Liberals are comprised all to whom you can look for assistance in the character of friends.

"What on this, or any occasion, could have possessed you thus to *run-a-muck* (Malay like) against all your friends? Yes, against *all* your friends, with the exception of a comparatively small number of zealous Catholics.

"To what *useful* purpose can you thus wage war upon them? In proportion as you damage their reputation, (supposing on your part the capacity of thus producing in any degree that effect,) would not you be weakening your own force?

"No, surely, by any such vague reproaches: for which no specific grounds are *alleged*, and for which all such grounds would be out of season, by any such *ungrounded* reproaches, if any

reputation be impaired, it will not be that of *those against* whom, but of *him by whom* they are uttered.

"On what supposition is it that you thus make war upon them? Is it not that they are either Non-Catholics, or Non-Christians?

"But in either case, what good is it possible you should derive even from success in this same unnatural war? Is it by vague reproaches, in that or any other shape, that any man can expect to *convert* any other man to the Catholic faith, or to any other?

"Talking in this strain, you afford gratification (it may be supposed) to your own momentary feelings,—and sorry am I to be obliged to call them your own *antisocial* feelings;—you, who so laudably abound in social ones of the best and most extensive class. This gratification you afford yourself. But how dearly do you not expose yourself to pay for it!

"All this while, what is the object and end in view of the liberty I am thus taking with you? Is it to give you pain in any shape? This you will see it cannot possibly be: for if it were, it is not in this *private*, but in the most public manner, that I should address you. It is, on the contrary, to preserve you from all future pain, if possible, from the like source: it is to prevail upon you to abstain from drawing it down upon yourself, by any more such manifestations of hostile feeling towards almost all those, among whom, for any of your great and beneficent purposes, you can look to find friends.

"True it is, that what is past cannot be recalled. But what I comfort myself with the hope of, is, that when you come forward upon the great carpet, with your noble plans of real reform, the memory of these *escapades* will be drowned in the blaze of your unexampled merits, and your matchless eloquence.

"Would you wish? can you endure? to see a specimen of the effect actually produced by this *sortie* of yours? Read it, if you have not read it, in *The Examiner*, in the No. of the earliest day thereafter ensuing. Perhaps it was noticed in *Examiner* more than once.

"Being of the number of your sincerest admirers, and, however unknown, friends, I sign myself,

"Phil-O'Connell."

And in a letter to O'Connell, signed by himself, and written at about the same time, he says—

"*Nov.* 7, 1829.

"Dan, dear Child,—Whom, in imagination, I have, at this moment, pressing to my fond bosom,—put off, if it be possible, your intolerance. Endure the conception, and even the utterance of other men's opinions, how opposite soever to your own. At any-rate, when you assume the mantle of the legislator, put off the gown that has but one side to it,—that of the advocate.

"As to evil tendency of opinions, and insincerity in the profession of them, and any sinister interests by which in the character of motives, the declaration made of those same opinions may have been produced,—these are points quite different and distinguishable from the entertaining of those same opinions; not that under the assurance, could I but entertain it, that I should thereby avoid giving you pain, not that there is any opinion of mine, that it would cost me any pain to forbear exhibiting to your view, but that in the nature of the case no such assurance is obtainable. It would require that I should be in possession of an exact list of all your opinions, —at any rate of all that are of any considerable importance in a religious or political view, present and future, all your opinions, not present alone, but future likewise.

"What a comfort it would be to me could I but receive your assurance that you have taken yourself to task on this ground, and that the result of it has been a resolution to embrace, in words as well as deeds, that charity which is called *caritas*, and which, whatever it thinks, (for we are not masters of our thoughts, at any rate, and in particular, of my opinion, I who write this feel too plainly I am not,) avoids, at any rate, speaking evil. 'Evil speaking,'—speaking evil of any person, for not doing that thing which it is not possible to do, or

for not doing anything which it is not possible to avoid doing,—in a word, for the non-performance of impossibilities."

Again Bentham writes:—

"*Nov.* 10, 1829.

Quis tulerit Gracchos de seditione querentes.—
Clodius accuset mœchos.

The pot and the kettle
Let them this matter settle.

"Behold here a further source and subject of anxiety. Take, take in good part, my dear child, a sermon upon these texts.

"The Solicitor-general knowingly and wilfully committing an act of deception, a *suppressio veri*, by abstaining from bringing forward a matter-of-fact, the certain consequence of which would have been the acquittal of a knot of men, against whom, in a capital case, he, by commission from the crown, was acting as advocate, these men not being, any one of them in truth, guilty of the fact charged. Let all this be taken for granted, and the conduct manifested by it shall be as bad as you please, and, in a moral view, the censure merited by it as severe as you please. Well, but what then? What is this but acting as an advocate?—doing what every advocate is hired to do, and consents to do for hire. For this reason, amongst others, it is, that under my system the two branches, the professional and the judicial, are kept inexorably distinct. When the length of time which is long enough for an apprenticeship to the art and mystery of judicature has elapsed, admitted to the office of judge [shall be] no person who has ever practised as an advocate. Therefore it is, that (extraordinary exceptions excepted) if I admitted of an exclusion of evidence as a security against deception, sooner should this fall on an advocate than on a robber or murderer.

"But *you*, the most illustrious of all advocates—does it belong to *you* to pledge yourself to bring forward your great wheel to break this fly upon? Could you put it to any such use without bringing down no small part of its weight upon yourself? In vain, were I so disposed, could I conceal the self-regarding interest by which this sermon, wearisome as it cannot but be, has been produced. It is the fear of seeing worn down, and rendered less respected, less feared, less efficient, this mighty instrument—the use of which stands engaged to me, for crushing in its whole enormous mass, the machinery of injustice.

"The man in question, be he who and what he may—suppose him brought before the Honourable House (not that it is possible he should be) for what he did: how obvious and sure his answer! 'What,' says he, 'was it that I did, more than anybody else in my place would have done? that which universally—at any rate generally—is understood to be the duty of every advocate, to every client, in every case?'

"This done, should I have been instrumental in the shedding of innocent blood? Not I, indeed. My duty to my client having been thus done: nothing would have hindered me from doing what is the duty of every man to justice: namely, to preserve myself from the having been instrumental in the shedding of this same innocent blood. That which would set everything right is a pardon; and this is what, under full assurance of success, I should have set myself to procure.

"What, again, if he should say, although the individual charges brought against these men were false, yet, from all circumstances taken together, I was persuaded of their having been guilty of the offences charged, or others of the same description? In that Honourable place, an exculpation of this sort would it not be listened to? Observe I speak only hypothetically: for of the particular circumstances of the case, other than as above, I have not taken any the slightest cognizance.

"Observations to the effect of the above sermon, I hear from men who are zealous friends to us and our great cause, and what to say in vindication I cannot find. If, upon cooler reflection, it should happen to you, to see that matter in the same point of view, you will, of course, take the best course that can be taken for backing out.

"Inconsistency! inconsistency! this is one of the rocks which my perhaps

too sensitive—I *hope* too sensitive—imagination presents you, but too often to my view as in danger—not of splitting upon, indeed, but of being cast upon, and more bruised, than without severe suffering on my part, I could behold you. How could I forbear boring you with these sermons? Are we not linked together by our most philanthropic, most meritorious, our strongest and fondest hopes? Your reputation, is it not mine? All the while, with delight, gratitude, and hope, do I think of the excellent temper and endurance, with which you bore—yes: and upon my suggestion, in relation to the so unworthy Radical, our false brother *Hunt*.

"If, after all, this does but annoy you, without producing preponderant good, speak but half a word, and my dear quinquagenary child shall never more be thus tormented by the old hermit, his octogenary self-constituted guardian."

Bentham to O'Connell.

"*Dec.* 8, 1829.

"Wellington is civil to me—gives immediate answers, all in his own hand, to letter after letter, that I send to him. I have written him about Law Reform, telling him, if he will listen to me, he may do what Cromwell tried at, and failed in:—the lawyers were too many for him.

"Herries, the Cabinet Minister, on receiving a little tract of mine, 'Emancipate your Colonies,' writes me a homage-paying letter, speaking of himself as 'honoured,' &c.

"With all this I am dispirited. I am at my wit's end—and wherefore? Even because of you.

"He has declared war against you. Are not you a Liberal? Can you deny that you are? Would you wish to deny it? Since the name was invented, have you ever ceased to answer to it? On the Monday he is at your feet; he was a Benthamist. On the Thursday, you are the object of his declared abhorrence; he is an anti-Benthamist. And in the meantime, what is it you have done? Can you have any doubt of this? If, after that declaration, any doubt is left, look to his silence. His letter of more than a month ago, Nov. 4, is the last you will have from him.

"He is a tool in the hands of the Jesuits. He is a weathercock, and their breath the blast that determines its direction.

"Those to whom you are most indebted for what you are, for your having devoted the whole of your long life to the service of mankind, those by whose means he himself became what, till the other day he was,—a Benthamist, these are now among the objects of his proclaimed abhorrence.

"In England, the men of his own religion are cold to him, and indifferent; Liberals, all to a man, his warm friends, and the only ones: and this is the return he makes to them.

"The friends of liberty all over the world, those are the men he thus makes war upon. The liberal Spanish Cortes,—the liberal Portuguese Cortes,—all over late Spanish-America, the constituted authorities, with the exception of Bolivar, till t'other day the Liberator, now the Subjugator. The declared enemy to all useful lights, who, after trumpeting my works, and declaring that they had given to politics and morals the certainty and precision of mathematics, has made it a crime in every man to have so much as one of them in his possession. In a word, he has made himself to be, in his part of Spanish-America, what the beloved Ferdinand was—completely absolute; with the single exception of the person of the despot he has reëstablished the *ancien régime*.

"And what is it that has produced the alliance between him and O'Connell? One simple merit, which absorbs and stands in the place of all others,—he has reëstablished, and is reëstablishing monks. Well, and what of that? Are these monks Jesuits? No! but tell them they have taken the vows to disobey the command, which says, increase and multiply; and this is the merit which, in the eyes of a father of a family, suffices to outweigh the most flagitious crimes.

"With inflexible pertinacity, he adheres to the religion of his fathers,—to the opinions under which he was born and bred. The Liberals, in all their

varieties of opinion, do the same thing: and thus it is, by pursuing the very same course that he pursues, they have made themselves the objects of his abhorrence.

"In what consists their crime?—the crime of the very worst of them? In differing with him on a question of evidence, on the credit due to statements of facts, self-declaredly improbable,—statements written in early, and comparatively uninstructed ages,—statements unsubjected and unsubjectable to the test of cross-examination. Granting these statements to be all true, yet is it a crime—an unpardonable crime—not to be convinced by them? not to be able to comprehend what he himself declares to believe to be incomprehensible?

"He thinks it is in the infallibility of the Pope, or of the Church, (whoever it is he means by the Church,) and, after all, in whose infallibility is it that he is believing? in whose but his own. His opinion is, that their opinion is infallible, and is not his own then the opinion on which his confidence of the supposed infallibility rests?

"Fasting, prayers, celibacy, self-tormenting in any or all shapes, can it atone for, and, in the scale of good and evil, preponderate over all-comprehensive beneficence?

"This, and more in abundance to the same effect, is what I have been doomed continually to hear from all around me: and what can I find to say in answer? Just nothing. I am struck dumb. I stand mute. I shrug up my shoulders: this is the condition in which you have placed me. Will you? can you, say anything, do anything that will help me out of it? Unless you can, to what end come hither and take your place in the House of Commons? The men you have declared war against, is it to them that you look for support? The Whigs and the Radicals—of these are composed the Liberals—remain the Tories. Is it to the Tories that you look for coöperation in the dissolution of the Union? To the Wellingtons and the Peels for the abolition of their own tyranny? If it is to Irishmen alone that you look for the shaking off the yoke, and, among Irishmen, to the Roman Catholics alone, whose wish it is to be governed by the Jesuits, will not any endeavour of yours go farther where you are than here?

"My dear, dear O'Connell—Oh no! it is not in anger—it is in grief of mind that I say this. Hate me as you will: I defy you to make me hate you,—I defy you to prevent me from being your well-wisher; and not merely your motiveless well-wisher, but your faithful servant, and your benefactor, if possible, if, by anything I can say or do, any addition can be made to your greatest happiness, as witness these presents, written in a moment of dejection—not to say despondency, at the close of a night occupied in dreaming of you."

To this O'Connell replies:—

O'CONNELL TO BENTHAM.

"*Merrion Square, Dec.* 13, 1829.

"MY DEAR SIR,—I went to Drogheda on Saturday; and, therefore, did not read your last letter till Sunday. I came back to this town yesterday noonday: thus I account for not replying instantly, as you desired.

"Now to reply to your questions: 1*stly*, I read your former letters attentively, without being in any degree offended. Add—I was not—I am not—nor ever shall, or will be—I never can be offended with you.—Reason—because I deem you the most useful man to the world at large that I ever knew. I have scarcely ever read of any man who could fully compete with you in point of practical utility.

"If you had not attacked Judge & Co. by direct face-blows, the absurd superstition, by which they were surrounded, would have protected a most unjust, mendacious, and vexatious system under their wings, for at least another century.

"I cannot write more at present: but I *do* owe you a long letter—and thus promise to pay within the meaning of Lord Tenterden's act, which has already cost several hundreds of pounds to *discover* that meaning.—With the most sincere respect, yours most faithfully."

And Bentham rejoins:—

BENTHAM TO O'CONNELL.

"*Q. S. P.*, 18*th Dec.*, 1829.

"MY DEAR O'CONNELL.—This moment comes yours of the 15th: heavy on my mind was the pressure from which it has relieved me. In comparison of former letters, however, there comes here a sort of coldness that prevents the relief from being quite complete: 'respect?' yes:—'affection,' mention or intimation of it?—none. O'Connell! I love you with a *father's* love. A man at my age is old enough to be grandfather to a man of yours.

"I had taken measures for causing inquiry—personal inquiry—to be made of you, whether the two successive letters of mine to you had come to hand: the book I take for granted has; for had it not, you, in this letter of yours, would have said as much. I have taken measures which, I hope, will be time enough to be successful to stop the inquiry."

CHAPTER XXIV.

1829—30. ÆT. 81—2.

Law Reform Association.—Apprehension of Blindness.—Sale of Offices.—O'Connell.—Mordvinoff.—Jabez Henry.—Livingston.—Codification.—Brougham.—Peel.—O'Connell.—J. Smith, M. P.—Letter to President Jackson; Law Reform in America; French Politics.—Humann of Brussels.—Rev. Humphrey Price.

BENTHAM was desirous of organizing an association of influential persons, for expediting, cheapening, and popularizing the administration of justice, and for advancing Law Reforms in their various shapes. He thought, that many who would hesitate about lending their aid to the obtainment of Constitutional Reform, might not be unwilling to coöperate for the purpose of making justice more accessible to the whole community. For this purpose, he obtained the promised coöperation of many distinguished men: but the purpose never ripened into an efficient vitality. Names to ornament—reputations to attract, were easily found; but not so hands and heads to work. So the plan was abandoned, or deferred *sine die;* and justice remains as it was, a luxury purchasable by the opulent, but wholly beyond the reach of the poor: its pursuit vexatious—the results of that pursuit unascertainable—wearisome from delay—burthensome from cost—and oppressive from uncertainty.

The apprehension of blindness gave Mr Bentham, at this time, no little anxiety; yet he talked of the probable calamity with great composure. "I shall be cheerful," he said; "blind people are cheerful: and I shall escape many annoyances." It was thus that, in his own case, he applied his maxim to look on the bright—on the brightest side of things. "The public may lose something by my blindness,—so I want to get my *generalia* and my *generalissima* despatched. If I come to dictate, my style will change. Look at that table, '(a board covered with a green curtain, on which Bentham was accustomed to pin the fragments which represented the leading principles of his writings.)' There are the texts for my sermons."

But his sleep was often disturbed by gloomy dreams. These are the words in which he described one of them, no doubt the consequence of indigestion, from which he sometimes suffered severely: "I have been dreaming that I lived near the Thames—I walked through streets more and more gloomy. I saw lugubrious houses inhabited by lugubrious people, and heard lugubrious discourses. I tried to escape, and found all the streets into which I entered had no outlet. It was always a *cul de sac*."

In 1830, Bentham wrote some letters on the sale of public offices, which he deemed a valuable means for maximizing aptitude and minimizing expense. In answer to the objection that their sale would open the door to abuse, he says, with particular reference to the election of a Secondary by the Common Council of London :—

"SIR,—Accident having put the documents out of my reach, I must cast myself upon your indulgence for any little unintended misrepresentation or repetition it may happen to me to fall into.

"What I am ready to admit is—that, suppose the office to be sold, and *nothing done* for the *purpose of obviating abuse*,—abuse in all possible shapes, and to the highest possible amount, will be a more or less probable consequence : what, in that view, I would propose should be done, I will mention presently.

"On the other hand, I am a plain man, and nothing I have seen has been able to extinguish my conception that, under the *patronage system* abuse in all its shapes would be still more abundant, to a certainty, than under the *sale system*.

"How it should happen that any man, who proposed to purchase the office, should place any serious reliance on the plea in question, as if it were capable of lessening the probability of his suffering in any way in the event of his misconduct in the office,—in any shape whatsoever, extortion, oppression, peculation, or negligence—passes my comprehension.

"'I have purchased the place : therefore I have purchased the *right* of doing whatever *wrong* I can contrive to do by means of it :' such is the defence which the supporters of the patronage system put into the mouths of extortioners and peculators, stating it at the same time as being an unanswerable one. Here it stands in all its simplicity : and now, in any company, let any man who has nerve enough, stand up, and after repeating it, declare it to be his belief that any man, by whom extortion or peculation had ever been practised, could have thought that, in the faculty of making an observation to this effect, he really possessed either a justification, or so much as the slightest shadow of an excuse.

"'*The pistol I killed the man with I bought:*' exactly as good an apology would *this* observation be for murder, as *that other* for extortion or peculation.

"Now, Sir, what is the assumption made by the *opponents of sale*, when they profess to regard an observation to this effect as rendering it probable that extortion and peculation will have place to a greater extent if the place be sold for the benefit of the public, than if given for the joint benefit of giver and receiver? What is it but that the *means* of committing a crime, and the *right* of committing it, are the same thing? And not only that criminals themselves are persuaded of its being so, but that so are people in general likewise : or, at any rate, that by those by whom it is not regarded as a justification, it is at least regarded as an excuse.

"No absurdity so gross, but that when once it has obtained a certain degree of currency, it is capable of passing for argument, nay, even for conclusive argument, and even upon the most intelligent minds, where the leisure or the motive for scrutinizing into it has been wanting. In the present instance, for example, upon minds even of this character, who can say to what extent the delusion here in question may not have had place? But now, it is hoped, the fallacy has been displayed in its genuine colours; and if so, those who, without any particular and sinister interest, have been in the habit of accepting and passing it in the character of an argument in favour of patronage in preference to sale, will have to consider whether they would not do well to separate themselves from bad company; in a word, to declare themselves undeceived, and thus leave the corruptionists to stand by themselves, singing out this their fallacy to deaf ears and scorning countenances.

"But now suppose that, spite of everything that can be said to the contrary, there are people who will think, that the purchaser of the office will rely upon the sort of epigram in question, as a thing that will purchase impunity for him. So far as this notion has place,

so much the less probable will be his misbehaviour. Why? Because so many as there are of them, so many spies on his conduct will he have; whereas, under the patronage system, this cause of public suspicion and public vigilance has no place.

"If a man purchases the place of the public, nobody will have any interest in screening him in case of abuse; if he receives it from patronage, he has the patron or patrons, who share with him in the benefit of the abuse, and are little less sure to support him in it, than he is to practise it.

"The owner of an advowson—has he not an interest in the increase of tithes? Oh, but the Church patron is but one, and nobody knows who he is. Here the patrons are many; all *known* men—all honourable men. True: but were they even *Right Honourable*, it would make no difference. In a multitude of this sort, on every occasion, some *one* there must be, or some very few, that take the lead; and, in so far as this is the case, distinguish it if you can from that of the Church patron.

"So much for the *anti-venality* argument. Now for the anti-guzzling argument. It sticks in my throat, along with the other. I cannot swallow it. The money, if received by the persons in question, will be spent in guzzling; therefore it ought not to be received by them. Such is the argument: please, good Sir, to observe what it is it leads to. It leads to this: namely, that on account of the trust in question, to wit, that exercised by the Common Council, neither by these same persons, nor by any other persons in this same trust, should any money at all be ever received from any source at all—from this, or from any other; such must be the notion, unless it be that money received from this source will be sure to be spent in guzzling, while monies received from other sources will be sure to be applied to their proper purposes, or will at any rate take, all of them, the same chance.

"Now for the proposed Remedies. 1. Let the election to the office be annual. Why not to this office as well as to the office of Common Councilman itself? Why not in the case of the protégé as well as in that of the patron?

"2. Let the bills of costs, in the suits from which the functionary in question—the Secondary—derives his fees or other benefits, be not merely accessible on demand, or accessible to none but a few,—or to none but on payment of a fee, be all of them printed and published, for the inspection of everybody that chooses to look at them. Among the places in which copies would be kept, would of course be that in which the Common Council have their meetings; and in that place at least, to invite attention and facilitate examination, abstracts and indexes, in the tabular form, might be kept hung up.

"One thing more. By the House of Commons, *petitions* against abuse in all its shapes, on the part of office in all its shapes, are not only *received* from all hands, but, with admirable universality and promptitude, printed and published. If in *all* cases by the legislature of the empire, why not in *this* case by the legislature of the metropolis?

"PHILO-BENTHAM."

BENTHAM TO O'CONNELL.

"*Q. S. P.*, 17*th January*, 1830.

"Thanks, my dear O'Connell—thanks in abundance—thanks in abundance—they cannot be too many—for your long, efficient, delightful public letter.

"For this same Association *rediviva* of yours—I forget the name of it, and have it not before me—I will contribute either £5 or £10, which you please, if you think it would contribute anything over and above the money, to the great cause. Advance the money: I will pay you on your arrival. You would have more—much more—if my means were in any degree commensurate to my wishes; but I have almost run myself dry, by my long-continued and persevering libations to the public service. You see the cancelling line: my eyes are waxing every day dimmer and dimmer, and my mind more and more oscillatory, or say tottering, or toddling, like my walk. I neither see what I am writing, nor remember one moment what I had

just been writing the moment before. But this does not in any material degree diminish my cheerfulness—nor, if the spontaneous and unanimous declaration of all my visiters as well as inmates is to be believed, in any degree deteriorate my looks."

The character of Santander, the late President of Venezuela, is given in a letter of Bentham to Admiral Mordvinoff:—

BENTHAM TO ADMIRAL MORDVINOFF.

"*Queen's Square Place,*
"*Westminster, London.*

"MY DEAR ADMIRAL,—I am alive; though turned of eighty-two, still in good health and spirits, codifying like any dragon. I hope to hear the like of you; but the hearing it *from* you being, under the engagements with which you complain of being overloaded, hopeless, I have commissioned my friend, General Santander, who (I hope) will be the bearer of this, to endeavour to collect satisfactory evidence of the *fact*—that fact so highly desirable for the benefit of the Russian Empire—and make report to me.

"Now, for a short account of him, in justification of the liberty I am thus taking with you in his behalf. In the State of Colombia, in late Spanish America, in the military line, he is among the heroes who have had none above them but Bolivar: in the civil line, under Bolivar's presidency, he has been vice-president: but, in company with your humble servant, having fallen into the disgrace of the arch-hero, has been made to share the same fate, being expelled from his country, as well as that work of mine, which had the honour of receiving (so I was told) two different translations into the language of yours. General Santander, so I hear from himself, as also from other quarters—General Santander, when in office, did what depended on him towards the diffusion of my works throughout the territory of the State, of which he was so distinguished a member; and such was the part, if any, which, till t'other day, was taken, in relation to them, by Bolivar. But, of late, Bolivar, as is natural to man, and even, in a greater or less degree, unavoidable, has been spoilt by power: and having for so many years deserved—so well deserved—his assumed title of *Liberator*—is now (alas!) become the tyrant of his country. At one time, he and I had something of a correspondence; and, in consequence of a recommendation from me, he had raised to a colonelcy a talented man of the name of Hall, an Englishman, who had been lieutenant in the English service. But, in the course of the opposition made to him from various quarters, some person or other had made reference to some or other of my works; and such was the cause for which, under I know not what penalties, he thought fit, t'other day, to issue an edict, having for its declared object the preventing every one of them from being read by anybody. This is what I flatter myself will not be quite so easy to effect as to ordain; for I have from a bookseller's partnership in Paris, (Bossange Frères,) an account of 40,000 volumes of my works, (namely, those edited by Dumont in French,) translated into Spanish, and *sold* by them for the Spanish American trade.

"As to General Santander's object in his visit to your capital, as far as I can comprehend, it has nothing political in it. Our Thames he has not, as yet at least, set on fire, or (I verily believe) so much as attempted it: and I do not think the Neva has anything more to fear from him. Being in easy circumstances, (the tyrant not daring to confiscate his property,) his object is, I believe, neither more nor less than to amuse himself, by the observation of a state of society which forms a contrast with that to which he has been most accustomed: travelling about till tidings arrive of the tyrant-usurper's having shared the fate of Iturbide of Pseudo-Imperial memory."

BENTHAM TO BROUGHAM.

"*Jeremy Bentham to Henry Poltroon, Esq., M.P.*—Decline my challenge, you will be posted all over the civilized world.

"Copy of your bill, with the abstract

of it, are come to me, of course, with the other Parliamentary papers. Enactive matter—yes. But, the Rationale, where is it, or can it be? Answer—nowhere: nor dares it even make its appearance. *Return*,—in Parliamentary style, *nil;* in Common Law style, *non est inventus*, add *non inveniendum*. Come, if you dare, to this Hermitage; and the hermit—hermit and octogenarian as he is, 'will hang a calveskin on those recreant limbs.'"

BENTHAM TO JABEZ HENRY.

"*Q. S. P.*, *15th January*, 1830.

"MY DEAR SIR,—International law as it ought to be,—leading principle, the greatest-happiness principle. No small satisfaction would it be to see this subject treated of by the light of this same principle before I die,—as a moribund man such as myself, is apt to go on and dream, as if he were to see things in this wicked world afterwards. If I knew any man likely to treat it more to my satisfaction than yourself, I should propose it to him; but as I do not, I take the liberty of hereby proposing it to you. It is by your work intituled '*Foreign Law*,' that this wish has been suggested to me, although, of course, the law there in question, is law as *it is*, including what it is supposed to be. Of international law as it is, the principal part of the matter is composed of treaties between State and State; of what it is supposed to be, the matter is composed of deductions from these *written instruments*, and from the operation of the several States in relation to one another. But this is not all,—other matters belonging to the subject are the variations: the demand for which is presented to the Government of every State, by these circumstances,—that the individual thing which, or person on whom, or in favour of whom, or at the charge of whom, it has it in contemplation to exercise its several powers for its several purposes, on the several occasions in question, is not a thing or person belonging in ordinary, and for the most part to this same Government itself, but one belonging to some *other* Government.

"Between sleeping and waking, I am thus insensibly running over a ground which, I believe, I have touched upon already, and on which, therefore, there was little use, overwhelmed as I am with the urgent business of the day, in my setting my foot. The first thing a man has to do in building, is to see and settle in its whole dimensions, the ground he has to build upon. To my own purpose, at any rate, perhaps these few hints, broken as they are, may be not altogether without their use. What I should have been, and should still be glad to do, is to circumscribe it in every direction,—but this is not yet done.

"As to the matter of Prisons, it is with unfeigned regret I have to say to you, that it is not in my power to do that which you do me the honour to wish to see done by me. I have not time sufficient, for a load of business of my own that presses upon me; and this subject is, by a particular circumstance, rendered distressing and hateful to me, especially despairing as I do of seeing anything that to me seems fit to be done, put to use."

O'Connell, in writing to Mr C. S. Cullen, gives the following confirmation of his testimony, in favour of Bentham's Judicial Reforms.

O'CONNELL TO C. S. CULLEN.

"5, *Maddox Street*,
"*16th Feb.*, 1830.

"MY DEAR CULLEN,—You may assure your friend, Stanhope, that he mistakes me much, if he thinks me at all *doubtful* on 'the fee-gathering system,' or that I fall short of the full measure of relief which Bentham contemplates. Indeed, if it were possible to go further than Bentham does, and at the same time to be right, I would do so; because I know *practically* that the mischiefs of the present system exceed, not fall short, of any notions which may be entertained by those who are not practically engaged in its workings.

"I adopt the 'spirit of the petition for justice.' That petition is my legal creed. I do not believe it to be infallible; but I really and seriously think

it as nearly infallible as any purely human project can be.

"The fee-gathering system has been attacked in Ireland thus far—the fees are all now paid to the Government. The pecuniary emoluments of the judges are fixed, and are not affected by the amount of the fees, directly or indirectly. Even the officers, whom the judges appoint, are now paid by fixed salaries. We are therefore suffering from the odious effects of 'fee-gathering' in former times, although that source of increase of mischief is slackened. In attacking the fee-gathering system, I must not forget that this is the existing state of facts; but I dislike the system itself. I am, and ever will be, its enemy—its implacable enemy.

"In fine, there never lived a more complete, entire, unchangeable enemy to law abuses as they exist,—a more determined advocate for the *domestic*, instead of the *factitious*,—the *summary* in contradistinction to the *technical* form of procedure, than yours, very sincerely."

BENTHAM TO EDWARD LIVINGSTON.*

(Extracts.)

"*Queen's Square Place, Westminster*,
"*London*, 23*d Feb*., 1830.

"SIR,—The honour done me by the communication you have been pleased to make to me of the proposed codes, and the papers relative to them, has called forth my sincere gratitude. At the same time, it is my misfortune to be obliged to say, and it is with no small regret that I do so, that the circumstances in which I am placed do not admit of my complying with the wish expressed in the obliging letter by which they are introduced. I feel myself beyond all hope of being able to spin out the thread of my own ideas, on the subjects in question, and others intimately connected and intertwined with them; and that thread once broken, it is regarded as being in no small degree questionable whether there be any other hand by which it could be gathered up and carried on exactly in the same line. What depends upon me towards rendering the honour which is so justly due to you, shall, however, not be neglected: it will be not the least pleasant of my cares to look out for and place these papers in such as appear to me to be the most competent hands to which they can be confided, for the purpose of rendering some account of them, and laying before the public any such useful observations as it may have happened to them to have elicited.

"This enormous delay has had for its cause my desire to give you definitive information of the steps that have been taken for the giving publicity to your Penal Code in this its latest form. An article on it will appear in *The Jurist*,—a periodical designed to be quarterly, in imitation of the so-called *Quarterly*, *Edinburgh*, and *Westminster* reviews, but not very regular as to time. It has Law Reform and Improvement for its object, and pursues that object with the best intentions, and distinguished talent. The article will be written by Dr Southwood Smith, by profession a physician; but a man of genius, philanthropical affections, and eminently-extensive knowledge. Here a natural question is,—Why and whence this physician? Answer.—You know, or do not know, that your code, in its first state, has been republished here in London; the act of publication was a spontaneous act of philanthropy on the part of this physician. He was, and is, far from rich; he has no patrimony, no source of subsistence but his professional practice, which is not by any means adequate to his merits. This act of self-sacrifice found its way to the ears of John Smith, Member of Parliament, president or chairman (I forget which they call it) of the Company of London Bankers; one of four brothers, three of whom are in the House of Commons, and the other raised to the peerage, with the title of Lord Carrington, by Pitt the Second,—besides two nephews of the same name, also in that same House. John Smith took the expense out of the hands of his namesake. I say the expense; for

* Then Senator for the State of Louisiana, at the Congress of the United States, afterwards American Minister at the French Court.

under this our aristocracy-ridden and lawyer-ridden constitution, (in royal and ministerial language, yclept, 'matchless constitution,') expense of editing works of this nature stands no chance for reimbursement. On the present occasion I wrote to Southwood Smith, and he has consented to write: I made application to the editors of the *Jurist*, and they have consented to accept and publish: the *Jurist*, I am told, pays no money for the articles it accepts and inserts.

"It is matter of no small satisfaction to me to learn, from Mr M'Lane, that the Senate of Congress is about to receive the benefit of your services. I look forward with pleasure to the chance of seeing (small as at my age the best chance of seeing it can be) some proof that, under your auspices, the *Cacoethes Codificandi*, to speak in the language of the adversary, is become contagious.

"By reputation at any rate, if not personally, Mr Lawrence, late *Chargé d'Affaires* at this Court, can hardly, I think, be altogether unknown to you. I have the honour and pleasure of a considerable degree of intimacy with him. He looked eventually to a seat in the House of Representatives: should that prospect be realized, Codification, I dare venture to hope, will receive in him a powerful support.

"Another friend I had the good fortune to make among your diplomatic functionaries, was Mr Wheaton, with whose function at New York you cannot be unacquainted, and who, on his way to his mission to the Court of Copenhagen, passed some months in this metropolis.

"An objection that is constantly made, and strongly insisted upon by the adversaries of Codification, is, that when your Code, even supposing it to be an all-comprehensive one, is prepared, whatever good was expected from it, would ere long be extinguished by its being clouded and covered over by an overgrowth of judge-made law. In proof of this position, reference is made to Buonaparte's Code, which, by its deficiency, has certainly given rise to more of this matter than could be wished; but were this really-existing law ever so much more imperfect than it is, the rule of action composed of it will never be nearly so inadequate and unapt as that is, which is composed of the imaginary sort of law distilled from decisions made in particular cases by judges; and you or I having Buonaparte's Code before us—and if he is a giant, and we dwarfs, being accordingly mounted upon his shoulders,—might reasonably be expected, in the ordinary course of things, either of us, to make a Code less imperfect than his. But a method has occurred to me, which will render to all really-existing law the same sort of service as that which by copper-sheathing is rendered to ships, and make it as impossible for judges and commentators to defile the work of the legislator by their deductions, as it is for—the barnacles, I think they call the sea-worms in question,—to fasten their progeny upon the hulks so protected by the smooth metal. Of the principle of this contrivance of mine, some conception may be formed from Section 29, *Members' Motions*, in Ch. vi. LEGISLATURE.* In Ch. xii. JUDICIARY COLLECTIVELY, Sections 19, 20, 21, and 22, you will see the same principle applied to the decrees of judges. I give to judges the power and the duty to frame amendments *in terminis* to the Code, when once made, wherever they see reason,—whether for the purpose of interpretation, correction, addition, or defalcation: these I require to be certified and transmitted to the legislation minister, of whose duties a description is given in the Section designated by his name, Ch. xi. MINISTERS COLLECTIVELY. The details are explained at length in those several sections of those several chapters: but I stake whatever little reputation may be my lot upon my fulfilment of this assurance, and I flatter myself that this account, short and inadequate as it cannot but be, will not be found an altogether unintelligible one."

BENTHAM TO BROUGHAM.

"*March* 30, 1830.

"TO MASTER HENRY BROUGHAM!—

* See the Table to the Constitutional Code, vol. ix. of the Works.

NAUGHTY, NAUGHTY BOY!—Pap for you? Oh, no! no more of that—you would only puke it up again. Pap for you? No! that is not what you are in want of—you have outgrown it; what you are in want of is another dose or two of jalap to purge off your bad humours, and a touch, every now and then, of the tickle-Toby, which I keep in pickle for you. Ay! there they are, —the hot-buttered *Rolls*, and there are you, with your mouth watering for them, and your chops longing to be slobbered over with the butter you are so fond of, that you think you can never have enough of it. Rich as it is in itself, the butter is not rich enough for you, unless it has fees—yes, fees upon fees melted into it,—and then, too, naughty madcap! —never can you have enough of them. Yes! there you are—I have you, screaming like mad in the middle of the nursery,—throat hoarse,—eyes running—'Pray, nurse! dear nurse! fees for Henry—more fees—more fees!' These words you can speak plain enough already. When will you have learnt your primer? When will you be able to spell '*greatest-happiness principle; non-disappointment principle; ends of justice—main end, giving execution and effect to the substantive branch of law;* collateral ends, avoidance of delay, expense, and vexation—evils produced by the adjective branch? When you have got that by heart, you may then be fit to be breeched and sent to a grammar-school.

"Meantime, there is Master Peel: look at him there—a real good boy for you—take lesson by him. No more fees—*law*-fees at any rate, for him; he has done with fees: he isn't cramming his playfellows with them as he used to do: he is now sick at the very thought of them. He goes about saying to everybody that will hear him,—'No more law-fees for me—I won't have no more of them. Instead of eating them, or giving them to other boys to eat, I shall fling them all into the fire. Them boys as can't eat their bread and butter without them, let them go without—that's what I say.' In short, Master Peel is growing a better and better boy every day: he says, and he will have learnt to say his book like a man, before I have done with him. If he continue to behave himself well, he shall have some nice Parliament gingerbread to munch: *that* he shall. So no more at present from your still-loving, though sadly offended grandpapa,

"YOU KNOW WHO."

BENTHAM TO O'CONNELL.

"*Q. S. P.*, 15*th March*, 1830.

"DEAR O'CONNELL,—Comes into my head just now an idea which I lose no time in communicating to you.

"On the *occasion* of your motion for printing Codification matter for use of Honourable House, what say you to *another* for the printing of *Livingston's* Louisiana Codification matter for that same purpose—I say on the *occasion;* not at the same time: for it would add a *drag* to a wheel which quite drags enough without it.

"Cases sufficiently apposite, not to say *in point*, you would have in plenty. Under the name of *Regulations*, Codes printed by order of Honourable House. From do., enacted and published in various parts in British India: the like from other distant dependencies of the British empire, in particular the West Indies: a complete list might, if needful, be collected for this purpose.

"Objection 1. This is matter of course and of obligation: for, over these subordinate communities we legislate; and to legislate *well* appropriate information is necessary; but over Louisiana we do not legislate. Answer—True; but unless we are omniscient, something in the way of appropriate information upon a much larger scale than in these cases may be not altogether without its use.

"On the subject of the quondam Nabob of Arcot's debts, real and pretended, to British individuals, Honourable House has already in print, folio volumes twenty-six, and the series not completed; on the funds belonging to English *charities*, about as many: this last communication in consequence of the Commission moved for and obtained by Mr Brougham. This Codification-matter of the State of Louisiana would

not occupy so much space as is occupied by this or that one of the above-mentioned fifty-two.

"Objection 2. Louisiana is a republic,—a commonwealth. 'Matchless Constitution' is a monarchy: it becomes us not to take for a model the laws of a commonwealth.—Answer. True: not the constitutional branch; but on no part of the constitutional branch have these Louisiana codes any bearing. *Penal* and *Procedure*,—these are the only branches comprised in the assemblage.

"N.B. For Louisiana there exists, and I believe already in a binding state, moreover, a civil code: but in relation to this, *prudence*, if my ears deceive me not, commands *silence*: for Louisiana being a commonwealth, landed property will, of course, be divided among all children, Gavel-kind fashion: of all heresies the most damnable—the most damnable in the eyes of the worshippers of the Dæmon of Oligarchy.

"For his own information, in his quality of Legislator of the French nation, Buonaparte gave publicity in French to the code, a widely comprehensive code, civil or criminal, or both, of another nation,—I believe civil, and that alone: but upon occasion, this matter could be stated with the requisite correctness.

"Should Mr Peel, or any of his lawyers,—should the worthy offspring of the Scarlet Whore, whose sins are red as scarlet, dare to make opposition, remind them of the civil wars of ancient Rome, between the Patricians and the Plebeians: main cause of them, the original policy, inexorably adhered to, of keeping the rule of action in a state of uncognoscibility: the lamp of the law hidden for ever within the impenetrable, light-denying, darkness-securing bushel.

"*Apropos* of Mr Peel. On Saturday I sent to him a copy of the argument against fee-gathering in judiciary offices of both grades, in the state in which I sent it to you: accompaniment to it, letter, in and by which was holden out a *hand*, which, if so disposed, he may regard as a 'right hand of fellowship,' and take hold of accordingly: occasion, the symptoms manifested in a late speech or two of his, in which he is coming round and attacking the army of Chicane in flank, at any rate, not to say in front, and, moreover, issuing a direct declaration of war against '*Technicalities*.' I even offer to look at those bills of his, if he will send them to me as he did some former ones. To these advances should he oppose a refusal, expressly, or by silence virtually, they will heap coals of fire on his head: for which purpose I have, moreover, some glorious matter, in a letter which he therein gives me leave to publish."

BENTHAM TO JOHN SMITH, M. P.

"*Q. S. P.*, 21*st April*, 1830.

"MY DEAR SIR,—On every account, private as well as public, high is the gratification afforded me by your most obliging letter.

"Sorry I am, that by the mention made of Denman in mine, to which yours is an answer, a sensation of an unpleasant kind has been made in one of your heartstrings.

"With Denman I never had more than one interview, and that a casual one, nor more than half-an-hour's conversation: the result of which was, on my part, as towards him, a sentiment composed of esteem and affection, and the satisfaction of standing assured of the existence of a sentiment of the same nature on his part as towards me.

"Accordingly, it is chiefly through the medium of general report that my conception of his character has been formed. He is, as far as I ever heard, of the number of those few of whom everybody speaks well. But high as he stands above par in the intellectual scale, what I have generally heard said is, that he does not in that scale stand quite so high as in the *moral* scale.

"In regard to law reform, I am indebted to his kindness for a copy of a pamphlet of his on that subject. If my conception on that subject, together with the unanimous voice of all who are acting with me, is correct, his suggestions, taking them all together, do not go to the root of the evil: if adopted and carried into effect, they would cut off no more than a comparatively minute

portion of it, and give stability to the remainder.

"Be this as it may, no call will on this occasion be made to him to declare himself. It is unanimously agreed, that partly for their own sakes, partly for that of the public, no such call shall be made to any man of the lawyer class, official or professional, for this purpose. Not even Bickersteth, who is a most cordial friend to law reform, to its utmost extent, (excuse the blunders my sinking frame is continually falling into,) and has hitherto acceded without reserve to the letter as well as spirit of everything proposed by me. By him has been revised and approved of, everything that he has seen of my proposed Equity Despatch Court Bill, and what he has seen comprehends the principal part of it. But the newspapers and private report speak of him as likely to be one of the new judges upon the Chancellor's sham-reform plan; in which situation I should rejoice to see him placed, and I will not place him in any such embarrassing situation as that of being obliged either to give, or to decline giving his accession to a measure necessarily so displeasing to the higher powers.

"As to the apprehended difference between Denman and myself, a few words will suffice for presenting some conception of it. In regard to procedure, I am for the complete substitution of the summary to the regular on every part whatsoever of the field of law: *he*, not. In regard to evidence, I am for a complete *exclusion* of the practice of excluding evidence on any such ground as that of preventing deception, or that of saving a man who has done a punishable act, from the need of contributing to cause it to be believed that he has done so,—namely, either by stating what it is that he has done, or by declining so to do. Denman, on the other hand, by the opinion which, in common with the generality of the fraternity, he maintains, or at any rate *did* maintain, stands entangled in the inconsistency alluded to in my former letter.*

"Should it ever happen to you to hold any conversation with him in relation to either of those points, you will observe whether he comes to *close* quarters, or confines himself to *vague generalities*, from which no trust-worthy conclusion can be derived.

"In my five large volumes on the subject of Evidence, (the *Rationale of Evidence*,—the whole running counter to the current—the united current of sinister interest, interest-begotten prejudice, and authority-begotten prejudice,) the subject of the *exclusions* put on Evidence occupies more than a whole volume. By what inducements can the perseverance of a lawyer, who either is or wishes to be in full practice, (rare exceptions excepted!) be reasonably expected to carry him through a volume filled with matter, the object of which is to prove, that he and all men whose feelings, interests, and opinions are in unison with his own, are in the wrong? and this with such effect, and to such a degree, as to be hostile to the interests, and detrimental to the happiness of all the rest of mankind?"

BENTHAM TO PRESIDENT JACKSON.

"*26th April*, 1830.

"JEREMY BENTHAM, London—To ANDREW JACKSON, President of the Anglo-American United States.

"SIR,—When your last predecessor in your high office was in this country, in the character of Minister Plenipotentiary, towards the close of his residence here, it happened to me to commence with him an acquaintance which ripened into an intimacy, which, in my capacity of legislator's draughtsman for any political community which should feel inclined to accept of my services, was of very essential use to me. Besides some labours of a private nature, he condescended to take charge, and became the bearer of a packet of circular letters to the several Governors of the United States, as then constituted; from several of whom I had the honour of receiving favourable answers. By candid

* Lord Denman has brought a Bill into the House of Lords, during the present Session of Parliament, (1842,) whose purpose is to admit the testimony of witnesses, notwithstanding power or interest, in the subject-matter, whether civil or criminal.

and authentic information on several topics of high importance, he was of use to me in more ways than you have time to read of, or I to write. Days, sometimes more than one in a week, he used to call upon me at my Hermitage as above, and to accompany me to the Royal Gardens at Kensington, in my neighbourhood, where, after a walk of two or three hours, we used to return to a *tête-à-tête* dinner. What gave occasion to our first meeting, was a letter, of which he was the bearer, from the President Maddison. A letter of introduction which I took the liberty of addressing to Mr Adams, in favour of an intellectual character, a relation of my friend, Joseph Hume, M.P., experienced that reception which I could not but anticipate.

"You will not be at a loss, Sir, to conceive what must have been my disappointment upon my learning of his failing to receive the customary additions to his term of service. Judge, Sir, of the consolation, — of the more than consolation which I experienced, when, upon reading your Presidential Message, I found that, upon the whole, your sentiments were not only as fully in accordance with mine as his had been, (and in politics and legislation, I do not think there was a single topic on which we appeared to differ,) but that they were so, and I trust remain so, in a still more extensive degree, embracing several topics which, between him and me, had never been touched upon.

"With Mr Rush I was also upon such a footing, that, in a letter of his, which I still have, he had the kindness to offer himself as my *agent* and *factotum*, (these are his words,) upon his return to the United States. Notwithstanding which, several weeks before his departure, for some cause which I never heard, nor can form so much as the slightest guess at, he dropt my acquaintance, and took his departure without so much as a farewell message. Since his retreat from office, I have, however, been favoured by him with the copy of a pamphlet of his. Without further explanation, I might mention, in a like manner, my friendship with Mr Lawrence, late *Chargé d'Affaires* from your country to this, and Mr Wheaton, Minister to Denmark, to whom I have been obliged for various important services. But of this, (you will say) more than enough.

"I now look back to a letter I had begun dictating between three and four months ago. Cause of the long interval, how deservedly regretted by me, not worth troubling you with. What now follows had been completely forgotten, when what you have seen above was communicated. This oblivion, years of age more than 82, render but too natural."

J. B. TO U. S. PRESIDENT, JACKSON.

"*January* 10, 1830.

"I have this moment finished the hearing of your message: I say the hearing; for at my age (as above-mentioned) I am reduced to read, mostly by my ears. Intense is the admiration it has excited in me—correspondent the sentiments of all around me.

"'Tis not without a mixture of surprise and pleasure, that I observe the coincidence between your ideas and my own on the field of legislation. The coincidence of mine with those of Dr Livingston, the Louisiana senator, are, perhaps, not unknown to you.

"The flattering manner in which he is pleased to speak of my labours in that field, is, in the highest degree, encouraging to me. The herewith transmitted publication, entitled "Codification Proposal," &c., may serve to bring it to view. These circumstances combined, concur in flattering me with the hope, that the present communication will not be altogether unacceptable to you. Annexed is a list of some of my works, which solicit the honour of your acceptance.

"Here follow a few observations, which I take the liberty of submitting to you, on some of the topics touched upon in your above-mentioned message.

"1*st*, Navy Board.—In this sub-department of the Defensive Force Department, you find, I perceive, many-seatedness established—by you, single-seatedness, I see, is preferred: so is it by me—for this preference, your reason

is responsibility:—so is it for mine. But in my account, though the principal reason, it is but one among several. This may be seen in the accompanying copy of the 1st part of my Constitutional Code, ch. ix., section 3.

"*2d*, After that you come to the Judiciary. If I do not misrecollect, in your superior Judicatories the bench is single seated. In my leading chapter on the Judiciary, to all the reasons which apply to the Administration Department in all its sub-departments, twelve or thirteen in number, several which are peculiar to the Judiciary are added.

"*3d*, Utter inaptitude of Common Law for its professed purpose—guidance of human action. Places in which you may find this topic worked: 1. 'Papers on Codification and Education.'—2. 'Codification Proposal,'—and 3. 'Petition for Codification' in the volume of 'Petitions.'

"*4th*, Superfluous functionaries.—In this number my researches have led me to reckon the whole of your Senate—not merely the whole expense thrown away, but the whole authority, much worse than useless. Responsibility in greatest part destroyed by a single functionary, what must it be by a multitude so numerous? Functions legislative and administrative thus united in the same body; thus the same men are judges over themselves. In my view of the matter, the administrative and the judiciary are two authorities employed to give execution and effect to the will of the legislative, and which, accordingly, ought to be, in the instance of every member of each, at all times distinct: the legislative being, by means of the power of location and dislocation though not by that of imperation, subordinate to the people at large—the constitutive.

"Knowing nothing of the facts, my theory leads me to expect to find, that the sort of relation that has place between the President and the Senate, is, that each of these functionaries, the President included, locates, within his field of patronage, a protégé of his own, without any check from the authority of the rest.

"This is nothing more than a faint, imperfect, and inaccurate outline, drawn momentarily by a broken memory from the recollection of a short paper written several years ago. Should it afford any prospect of being of any use, and you will favour me with a line to let me know as much, I will get it copied and transmitted to you: possibly I may even not wait for such your commands.

"It occurs to me, that should our opinions agree on this subject, there might be a use in the ideas being delivered, as coming from me or anybody else rather than yourself: seeing the opposition it would be sure to meet with from those who are satisfied with things as they are—the wound that such an opposition might give to your popularity, which is as much as to say, to the interests of the State.

"*5th*, Defensive Force—by sea and land: its organization. Tactics, (of course,) neither in land nor water service, am I, who know nothing of the matter, absurd enough to have comprised in it: but the part that I have undertaken has undergone the minute examination, and received the considerate approbation of leading minds of the first order, distinguished not only by talent, but by experience and splendid success; and who, indeed, though without having published on the subject, had in great part anticipated me.

"An intelligent man, who is in the confidence of the Duke of Orleans, and bears the whimsical name of *Le Dieu*, has been here in London for some time, publishing a periodical in French, under the title of '*Le Représentant des Peuples.*' He is thought to be the author of an address to the French army, that, after having been written here, and either printed or lithographized, has been transmitted to, and circulated in France. It has for its object the engaging the army, should matters come to a crisis, to act, not against, but for the people. The above-mentioned periodical, I have not had time to look into; but I am told that it advocates monarchy, which, considering the connexion of the author with a family so near to the throne as that of the Duke of Orleans is,

he could not choose but do. Thinking you might possibly have the curiosity to look into it, I send you a copy of such of the numbers of it as have appeared. La Fayette is a dear friend, and occasional correspondent of mine; but unless it be for some special purpose, we have neither of us any time to write.

"Forgive the liberty I take of suggesting the idea of your putting in for a copy of our House of Commons' Votes and Proceedings. The annual sum I pay for them is between £16 and £17, included in which is a copy of our Acts of Parliament.* Infinite is the variety of the political information which they afford; for scarcely any document that is asked for is ever refused. As to the price, scarcely would six, eight, or ten times (I believe I might go further) the money, procure the same quantity of letterpress from the booksellers. Trash, relatively speaking of course, is, by far the greatest part; but if in the bushel of chaff a grain of wheat were to be found, the above-mentioned price you will, perhaps, think not ill bestowed on the purchase of it. Dr Livingston, if either of the packets I have endeavoured to transmit to him through the same official channel have reached their destination, will be able to show you a few articles of the above-mentioned stock.

"If I do not mistake you, you are embarked, or about to embark, in a civil enterprise, which Cromwell, notwithstanding all his military power, failed in,—I mean the delivery of the people from the thraldom in which, everywhere, from the earliest recorded days, they have been held by the harpies of the law. Having yourself officiated in the character of judge, you are in possession of an appropriate experience, which in his instance had no place; but will you be able to resist their influence over the people? In opposition to you, so long as you are engaged, or believed to be engaged, in any such design, it were blindness not to look to see their utmost influence employed. The interest of the lawyers, and that of their fellow-citizens, in the character of clients, need it be said? is utterly irreconcileable. You cannot assuage the torments of the client, but you diminish in proportion the comforts of the lawyer. If these be really of the number of your generous designs, I cannot but flatter myself with the prospect of being for that purpose an instrument in your hands. The contents of the accompanying packet will, in so far as you have time to look at them, show you on what grounds.—With the most heartfelt esteem and respect, I subscribe myself," &c.

Bentham to M. Humann (of Brussels.)

(Extracts.)

"27th *April*, 1830.

"As to the particulars of my own life, Dr Bowring has for this long time been occasionally occupied in minuting them down from my own lips. Under the circumstances above alluded to,—from my own pen, you will, I am sure, neither expect, nor so much as wish to receive them. A friend of mine, whom you saw, is kind enough, at my request, to give me reason to hope, that in this view, he will look over some papers that are in print, and make a short extract from them, by purging them of some errors, repetitions, and other superfluities,—which done, endeavours will be used to convey it to you through the same channel as these presents. For your amusement, rather than for any present serious purpose, I may perhaps add to the above papers the greatest part of a pasticcio, which is now passing through the press, under the all-comprehensive title of 'Official Aptitude,' &c. You will forbear to have them bound up, till what remains still unprinted follows them. It will not be more than four or five sheets.

"As to the most eligible order in which the matter of my works can make its appearance in a new edition, I can think of none better than the chronological order of the impressions,—for such is the variety of the subjects treated of, and such is the multitude of those which remain uncompleted, and thence unprinted, that the whole power of logical

* This is a misapprehension. The Acts of Parliament are not distributed with the Papers of the House of Commons.

arrangement is set by them at defiance; and, in several instances, this or that paper which has been in print in this or that year, has remained on my shelves for a number of years before it has been made public. When, after my death, the friend, by whose hand the last published, whatever it may be, of my scraps, is destined to see the light, in fixing upon the order in which the matters of the first complete edition shall make their appearance, he will perhaps do not amiss, if, in that view, he casts his eyes on my Encyclopedical tree, or table—call it which you please."

In 1830, Bentham entered into correspondence with the Reverend Humphrey Price, who, under the influence of a highly excited sympathy for the suffering carpet-weavers of Kidderminster, had published some matter which was condemned as libellous, and was sent to prison. He thus tells his story to Bentham:—

REV. HUMPHREY PRICE TO BENTHAM.

"*County Prison, Stafford,*
"*2d April,* 1830.

"SIR,—I am a clergyman of the Established Church of England. Some eighteen years ago, another clergyman, to whom I had been for eleven years a curate, built a small country church in the heart of the lately enclosed forest of Needwood. The king endowed it with one hundred and sixty acres of forest land, and I was the first person presented to it. There I lived laboriously, and ever in my work, silent, and little known beyond the immediate sphere of my own duties, eking out a livelihood for my wife and four children by pupil-taking, till March 1829; at which time, the carpet manufacturers in my native town of Kidderminster suddenly dropped the prices of weaving, and the weavers as instantaneously *struck*. From my dear mother, who had never quitted the town, I first heard of the turn-out of the weavers in about a month from its commencement—of their most exemplary conduct. I had been born and reared among the poor men, with none other expectations as to the future than the rest of them. Without patronage or aid of any sort beyond a common free school, however, I became a clergyman, settled in another neighbourhood forty miles distant from Kidderminster, but always keeping up my connexion with my native town by means before alluded to. My heart had always yearned after the poor weavers, whom I had known for many years to be gradually sinking into a state of poverty, degradation, and want: and when I heard the particulars of the *strike*, I instantly decided to aid the poor dear fellows to the utmost of my power of purse and pen. I did so; and if I were at this moment to be conveyed to the gallows for doing so, I think it would be impossible for me to repent my act. But being ignorant of law, and unconscious of breaking it as an infant, here I find myself imprisoned (after the entire breaking up of my family by the expenses, &c.) for libel against six-and-twenty carpet manufacturers.

"Now for the express purpose of this letter. I am writing a letter addressed to all the operatives of England upon their present state and duties. This said letter, as far as it is written, I have read to my jailor, (a very respectable man;) but he says he dares not suffer such letter to be published without the sanction of the visiting magistrates. Of *their* permission to publish I despair. Nevertheless, the term of my imprisonment will end in time, when I shall be, *pro tempore* at least, independent of the arbitrary will of magistrates. I would not, however, (though altogether regardless of consequences, when conscious of right,) I would not, however, *violate any law knowingly*, unless I saw that it was a law I *ought* to violate,—as, for instance, a law which should command me to throw salt into the fire of a heathen sacrifice, &c.

"Will you, then, Sir, permit me to send my letter (above alluded to) to you for your advice as to the legality of it? I will thankfully send with it the requisite fee when known.

"Your answer, though only one word, (Yes or No,) will oblige," &c.

He said he had been attached to Bentham by the phrase, "Young Antiquity," which was in itself full of instruction. His letter interested Bentham deeply, and he thus answers it:—

BENTHAM TO MR PRICE.

"*Queen's Square Place, Westminster,*
"*3d April*, 1830.

"REVEREND SIR,—Your letter, this instant received, has called forth my sincere sympathy. Your mention of the word *fee* shows how completely unknown I am to you otherwise than by the works you allude to.

"Have the goodness to send me this same statement of yours, and I will procure for it attention more valuable than any which it is in my power to bestow.

"I could wish to know what that work of mine is to which you allude; and by what accident and through what channel it fell into your hands.

"A libel is any writing for which any man who has *power* has the *will* to inflict punishment. I am myself the most egregious and offensive libeller men in power in this country ever saw.

"I am, Sir,
"Yours sincerely."

The detailed account which Mr Price gives of his history is full of pathos. He writes:—

MR PRICE TO BENTHAM.

"*County Prison, Stafford,*
"*5th April*, 1830.

"SIR,—I was born at Kidderminster, where my father was a poor weaver, and my mother a poor schoolmistress. At an early age, the toil of supporting myself and an only brother (who, happily perhaps for himself, though agonizingly for me, died when four years old, a wonder of a child in those days) devolved upon our dear mother, who could work all day in her school, and sit up all night with sick poor neighbours for forty years together. This dear woman was saving all that a most diffusive benevolence would allow her to save from others, for me and my children. But happily, thank God, I compelled her at last to let me purchase a small annuity for herself, with the money she was saving for us; so that now she is secured from want, provided her government security hold. This excellent mother has never quitted her native town of Kidderminster; and she being well acquainted with rich and poor therein, and in full possession of her faculties, and also considerable activity both of body and mind, though now at an advanced age, and taking deep interest in the state of the poor, I learnt from her all particulars of the *turn out* of the poor weavers, in about a month after its commencement. But if I am to notice my education, as well as birth and parentage, I must go back to observe, that, at Kidderminster, there is a free grammar-school, where, providentially for me, a young man came to be under-master, whose prospects depended upon attention to his duties. Under the instruction of that young man, (though in a school which, before his day, had been for many years grievously neglected,) I gained, in two or three years, a style of penmanship, (you may shut your eyes, or lift them up in surprise, when I now talk of style of penmanship,) and a quantum of arithmetic, to enable me, at an early age, (say 15) to migrate to a neighbouring town, (Bewdley,) to teach writing and accounts in a grammar-school there, for sixpence per week each boy; and to aid an infirm clergyman in hearing the lower classes Latin, for the reward of receiving from him, in private, higher instructions in Latin and Greek. Increasing infirmities prevented him from affording me much aid. In little more than a year, by means of working day and night, I was enabled to take the principal labour of my old friend's school upon myself; which I did take, most willingly on my part, and with much warm, I may say grateful, feeling on his. About that time, *two offers* were made me, the one of two hundred guineas a-year, my maintenance, and, at the expiration of four years, a fourth-part share in the trade, by an old schoolfellow at Kidderminster; and the other offer, by a clergyman five miles

from Bewdley, of twenty pounds a-year, to labour in a large common country school, at from sixty to ninety boarders and day-scholars, but *with the cure of a title for orders*, when I should be old enough, and qualified enough, to present myself before the Bishop of Hereford, who (luckily for me) was compelled to accept young men of very spare attainments, and without *University education*, in order to provide for churches so contiguous to the principality of Wales.

"Without one moment's hesitation, I accepted the latter offer; accepted it, not, I fear, from a truly religious principle, but because I hated trade, and loved something like learning, and had always an inclination to become a clergyman, &c., &c. In the above school, with from sixty to ninety scholars, I laboured hard and willingly for my term of two years, sitting up almost every night, winter and summer, till two o'clock in the morning, and getting up again at six. Having thus secured my title to orders, I returned to my former and far more agreeable situation at Bewdley, where I kept on working all day, and making it a point, for one year, to sit up one whole night in every week, without taking off my clothes, or lying on the bed. I had now obtained the age of 22½, or nearly, and ventured to apply for orders, though scarcely conceiving it possible to be admitted into the very serious and important office of instructing my fellow-creatures in religion. I had, however, discovered that most of my fellow-creatures with whom I had met, whether laic or clerical, were very ignorant of religion, and very lax in the observance of it,—and this discovery emboldened me. So I applied;—passed muster, (even with encomiums!) and obtained, not that curacy of only £7, the title to which, for orders, I had laboured for the two years to obtain, but another curacy of £40 per annum, which had been offered me while I was undergoing my two years' servitude. This curacy (near Savage) was eight miles from Bewdley, and to it, every Sunday morning, winter and summer, I used to walk, through little-frequented and very difficult roads, performed the morning and afternoon service, and returned to a late and plain, but welcome dinner at Bewdley. In about two years after my ordination, a clergyman at Bewdley, of the name of Wigan—a gentleman of the most correct morals, finished manners, liberal sentiments, and superior classical attainments I had ever at that day met with,—one whom I loved most devotedly, and who, I think, loved me, (for he gave me a larger share than he gave any one else of his society, which all of the superior order in that neighbourhood greatly coveted);—that gentleman said to me one evening, (we generally passed our evenings together when he could get released from company)—'Mr Price, I have often heard you say, if there was one person more than another to whom you should wish to be introduced, that person was Mr Gisborne. Now, I have in my hand a letter from a friend in Mr Gisborne's neighbourhood, stating that Mr Gisborne is, at this very time, in want of clerical assistance, as his curate is ill, and he himself is wishing to go with his family to Bath, for a fortnight or three weeks; if, therefore, you are in the same mind you were in lately, here is a fine opportunity for you to indulge yourself with a trip to a delightful part of Staffordshire, and to be introduced to one whose writings you so much admire. I will write by the present post, if you wish it.' I did wish it; and, in a few days after, found myself in a very different sort of society to any (with the exception of dear Mr Wigan himself, '*Manibus, Pax et Honos*') I had at all anticipated or witnessed. There were the old and first Lord and Lady Harrowby, a daughter, and a son—the present Bishop of Lichfield and Coventry.

"Not that I coveted, or sought after such company; though, without any farther seeking, I have always had the company of the great and good quite as much as I pleased, I might have had far more of it, in all probability, if I desired it.

"Suffice it to say, that I, who went forty miles, merely to know Mr Gisborne, and serve his church for about a

fortnight, never afterwards left him for eleven years; but was his curate at Baston-under-Needwood, a retired village within three miles of Mr Gisborne's seat of Toxall Lodge, where I married, and had four children; and when Mr Gisborne built the church to which I referred, no doubt, in my former letter, and which is situate within a mile of his own residence, he made me the altogether unsolicited offer of it; and there I have remained ever since, until the wisdom of the four Judges of the Court of King's Bench (whom, for the life of me, having never even seen a Judge before, I could not help deeming to be four old women) decided that I should be shut up in a prison for twelve months, and thus cut off from the active duties of public and social life.

"Previously to my law trial, I anticipated, and made every preparation in my power, for the worst that might happen. I called in all my bills, and settled everything, as though I were going to die. Mr Gisborne would have taken every law charge upon himself, and there were other friends that would have done the same for the sake of myself and family. *But* they one and all disapproved of what I had done; and on that account I was determined the blow should fall on me and mine alone. First, then, I sold my pictures, to enable me to meet the expenses of the first trial; and when the Jury decided against me, my two dear daughters left home for the first time, and have found a good, honest, and reputable livelihood in their no ordinary accomplishments of music and painting, &c.

"My eldest son is doing comfortably, my youngest is struggling at Cambridge. My wife has a small annuity, which I purchased for her about the time of my mother's. All are scattered. The parsonage house (a lovely spot) is desolate. All my furniture was sold. And here I am, hardened in my political sins, and far more likely to die for them, than to repent of them. Here let me say, as I am a stranger to you, that I have refused, and will refuse, all pecuniary aid. Through God's mercy, I shall have enough to pay all prison expenses. Debts I have none, and when I get out of prison, though I most certainly shall not be able to rally and collect my family again, nor even at first send for my wife, yet I shall have in my little living of £130 a-year, together with my house and thirty acres of land; enough for my immediate support, and for procuring, by degrees, one and another and another needful article of household furniture.

"The poor weavers of Kidderminster, sent me £100 to begin the trial with; but I would not touch it. I told them it would be like drinking their blood. At my appearance in the King's Bench to *receive judgment*, (I think they call it,) my adversaries put in an affidavit that a weaver was then in London, authorized to furnish me with all and everything I might want. I believe that this affidavit was according to truth, and that it did what it was perhaps designed to effect;—but I certainly have never touched the poor, dear weavers' money, except in one instance, when, in going last through Kidderminster, I called upon a very poor relation, (almost the only relative I know,) and left him and his wife my watch, &c., as the only thing I had to part with, and insisted upon their parting with it instantly for their support, which, with great reluctance, they did. This affair the poor weavers somehow or other heard of, discovered where the chain and seals had been sold, and where the watch, with great solicitude collected them again, and in about a month afterwards I was surprised and much concerned to receive, per coach, a little strong box, with my watch, &c., carefully wrapped in it, and a note declaring that they could not bear to hear of anybody having my watch but myself, and that if I sent them the money for it, they would return such money, though sent them a thousand times. This is the only money I had from them, poor, dear creatures; and welcome, most welcome, have they been to my *all*. How horrible law expenses are! I have heard that the prosecution cost my prosecutors (though I gave them no trouble from the very first) from seventeen hundred to two thousand pounds.

"But this may not have been the case. Me it (so to speak) has ruined; though my attorney would insist upon having nothing for his professional aid, to which, of course, I did not, and will not accede. I cannot conceive why I might not have been tried, and condemned, if need were, as I have been, at the expense, even as times go, of one or two hundred pounds in all! I never knew anything of law before,—never even having been in a court of justice before this late affair of my own. I had always had a very high opinion of the uncorruptness, and perfect impartiality of our judges, &c.; but my opinion of our law courts and judges, &c., is most seriously changed. Judges, I see, are evidently as much the creatures of political prejudice, as most (perhaps more than most) other men! This has astonished me. Perhaps I am wrong, and biassed by the untowardness of my own case; but if I am wrong it is much against my will; for I used inwardly to exult in the supposed character of our judges, and I was never altogether without the hope that, blundering as I might be in what I did for myself in the matter, the judges would find out that I was an honest man, in spite of all my adversaries could say or do."

BENTHAM TO MR PRICE.

"*Queen's Square Place, Westminster.*

"DEAR SIR,—The small accompanying cargo will speak for itself and me. From it you will judge whether towards you there is, on my part, any lack of sympathy. All I have *read* of you (it is with my ears that I have *read* it, my eyes not being strong enough) is that which is in your letter.

"The present Lord Harrowby I have seen at Mr Wilberforce's: his father was once at my house. His brother, the bishop, was my guest, at the convivial hour, at Ford Abbey, in Devonshire, in the year 1813, or thereabouts.

"The Association of which you see mention, is likely to meet at my house, for the first time, in less than three weeks.

"Sympathy has already extracted from me more than, (it being on so small a scale, it now operates to the prejudice of ditto on a greater,) yes,—more than I can justify. But you shall hear from me again, after I have heard some account of your libels.

"You have lost some friends,—you will gain others, and, perhaps, regain your former ones. You will have seen already with what sincerity I am yours,

JEREMY BENTHAM.

"Age, eighty-two.

"Strength, not much less than at twenty-one.

"Preaching, as per sample.

"Practice, in accordance with principle. Hence cheerfulness vieing with that of my youthful inmates.

"Let me hear from you after you have *cut open* what is here sent: but let not your third letter be much longer than the first. If you direct it 'To Sir Francis Burdett, M.P., at Jeremy Bentham's, Esq., Queen's Square Place, Westminster,' it may come gratis. But never think of paying either *carriage* or postage for anything you send to me."

On his return to his abode, Mr Price writes—

MR PRICE TO BENTHAM.

"*Needwood Parsonage, near Lichfield,*
"*July* 8, 1830.

"I am now returned to the bare walls of my parsonage, with the recollection that a libel prosecution stripped them of numerous beautiful and valuable paintings, and scattered to the four winds of Heaven a family which contained within itself more, perhaps, of the elements of rational enjoyment, than any other family in even a polished neighbourhood, without the possibility of a reunion. Accomplishments now perform the part of drudgery, and are turned to the procuring of bread rather than to the communication of intellectual enjoyment to a once happy family. But I repine not: I rather rejoice in my sufferings; and I think I am prepared to suffer greater evils still—so that I suffer wrongfully."

In the controversy in which Mr Price

was engaged, he certainly exhibits ignorance of the principles of political economy; and supposes that the rate of wages is decided by the feelings—more or less benevolent—of the masters. He would trace the sufferings of the labourer—not to the excess of labour in the field of demand and supply, but to the determined oppression of those who employ the labourer. This is *erroneous* doctrine; but it is not illegal doctrine: it ought not to be punishable doctrine: and least of all punishable when mingled, as it undoubtedly was, in Mr Price's case, with a truly philanthropic concern for the felicity of the suffering many. It would have been easy to answer Mr Price: it was most unwise—most cruel, to persecute him. In his addresses to the operatives, he reproves them for their want of knowledge; he encourages them to seek instruction; he exhorts them to eschew violence,—while he becomes the organ of their opinions and their prejudices. But the most objectionable phrases are but the outbreaks of a sympathizing and strongly excited mind—the overflowing of a really charitable and generous temper. The arts of the prosecuting lawyers, and of the prejudiced judges, were successful in giving, to expressions which really originated in, and represented regard for the labouring many, the character of hatred and wicked purposes against the master few. Mr Price was condemned by a special jury of twelve Esquires.

CHAPTER XXV.

1830—31. ÆT. 82—3.

Del Valle.—Jeux d'Esprit.—Burdett.—Sir James Graham.—Livingston.—Santander.—Duc de Broglie.—French Revolution of 1830.—Letter to the French People.—Introduction of Rammohun Roy.—La Fayette.—Brougham.—O'Connell and Libel Law.—Irish Coercion.—Parliamentary Candidates' Society.—Notices of Bentham in American Periodicals.—William Tait.—Cobbett.—Prosecution of Archibald Prentice.

DEL VALLE TO BENTHAM.

(Translation.)

"*Guatemala*, 21*st May*, 1830.

"MY EVER DEAR FATHER,—I received the precious letters and the books that you had the kindness to send to me. Unalterable are my affections, and great is my gratitude.

"I hoped for an opportunity to express that gratitude, when the earth began to be agitated, and we had to seek out other habitations. We commenced by experiencing earthquakes of little consequence at first, but repeated since, and becoming alarming. From four o'clock in the morning, of the 21st, to five in the evening of the 22d of April, last, there were fifty-two shocks. On the 23d following, at nine o'clock at night, there was one so strong as to destroy the roofs of many houses, to overthrow the walls of others, and to rend the arches of many churches. On the 3d of the present month, we felt another of some duration, which was successively followed by others of equal or less force. Many towns and a number of houses on various estates have been ruined. The Government of the State, and various families, have removed to Tocotenango, a small Indian village near to this city: others sought out straw huts (*ranchos*) near the suburbs; but I and others passed to Ciudad Vieja, which is a town a short distance from this capital. We have now, however, all returned to our habitations, but we are not free from apprehension, as the earth is still agitated, and it has been observed, that, in other times and places, earthquakes return more violently in the rainy season. The overthrow of Old Guatemala took place on the 29th of July, 1773.

"This horrible example, and some equally disastrous that other countries have exhibited, have not been sufficient to induce men to profit by experience; and I would beg you to notice this, in the different cities, and different towns that have been built either on volcanoes or in their immediate vicinity. In this Republic, the southern side, which is one series of volcanoes and which seem placed to beautify and afflict our country, is certainly the most inhabited. On this side, either upon the declivity of volcanoes, or near them, are the cities of St Miguel, St Vicente, St Salvador, Old Guatemala, Guezaltenango, &c.

"A choice so sad for a people who possess a territory sufficient for all the human race, is one of the many causes of its backwardness and retrogression. Little enough is done in times of rest, and nothing can be done in seasons of earthquakes.

"We established, in November last, an Economic Society of the Friends of the State of Guatemala, and I was elected Director. I delivered at the installation a discourse which I have the honour of transmitting to you. I wrote the Prospectus, and the number for the first month, which I also send. I shall proceed in writing other numbers, which I shall equally forward; and when the laws are printed, I shall have much satisfaction in presenting them to you. The Society will do much good in countries where the resources, which abound in Europe, are but scanty. The earthquakes have suspended our operations, but we are immediately about to recommence.

"Your name is honoured in the number for the first month, and will be so in the succeeding numbers, if I am connected with it. Your genius will give it weight and value, and will coöperate in dissipating those clouds, still dense, that obscure the atmosphere of this country. The pamphlets published by the Society instituted in your capital for the Diffusion of Useful Knowledge; the Popular Library issued by the Society for Elementary Instruction, at Paris; books, and Catechisms for Youth, are requisite for those who know how to read in this land. Convinced of this truth, I have proposed, and our Economic Society decided on, the translation of some of the principal that have come into my hands, and I have sent to Paris for the succeeding parts, with the same object.

"It is necessary to improve agriculture, to create industry, and to extend commerce. But they are ignorant of the road that would lead to this end: they know not where they ought to commence. They do not possess the economic sciences, nor have they agreed on their cultivation. Submerged for above three centuries in a chaos the most lugubrious, can we expect the sudden production of legislators, statesmen, financiers, &c.?

"The mind is affected with the most sad sentiments, at seeing the perpetual creation of public offices, (*empleos*,) while nothing is thought of that education which is necessary to fit men to fill them. We will have a multitude of legislators; and there does not exist a single school where the science of legislation is taught. We must have many statesmen, but we have no hall (*aula*) in which can be learnt even the elements of good government. I have said this in my Memorial upon Education; and I shall not cease to repeat it. Perhaps at last, the voice of reason may be heard.

"The immediate departure of the bearer of this letter, does not permit me to proceed at greater length. For the same reason, I defer, until another opportunity, my observations on your important letters.

"I beg of you in the meantime, to accept, Señor Bentham, the cordial sentiments, and the respectful consideration with which I affirm myself," &c.

I believe the three following *jeux d'esprit*, by Bentham, appeared in some newspaper, in 1830:—

SUBJECT FOR CONTEMPLATION.

Get down a map—and closely look
At those pretty ponds—the Canadian lakes;
And there you may see a Martial Duke
Turning your money to Ducks and Drakes.

CUSTOM.

If "Custom is the law of fools,"
What fools must Englishmen appear!
For that's the law that England rules,
The Alpha and Omega here.

HENRY BROUGHAM.

O Brougham! a strange mystery you are!
Nil fuit unquam sibi tam dispar:
So foolish and so wise—so great, so small,
Everything now—to-morrow nought at all.

BENTHAM TO BURDETT.

"*Q. S. P.*, 17*th June*, 1830.

"MY DEAR BURDETT,—Along with this goes my proposed Codification Petition, that petition which relates in a peculiar manner to myself; and which, if I do not over-flatter myself, you were kind enough to undertake, not merely to present to Hon. H., but to imbed it in your speech, in such sort as to make it a matter of obligation to Hon. H. to receive into its ears so much of it as you will be pleased to pour into them,—this being, according to what I have heard, without contradiction, an acknowledged right. Of course, if you find it to such a degree grating to the aforesaid honourable ears, that honourable gentlemen run out of the House, as they used to do when Orator Burke was pouring forth the torrent of his eloquence, you will stop in time. To accommodate the proceeding as well as may be to these contingencies, I have divided the matter into four or five topics, marking the topics at the top of the margin of each page.

"If ever there was a paper which, for the importance of the subject matter, as measured by the extent, presented a prospect of experiencing this indulgence, it is this: for the extent of it is neither more nor less than that of the whole field of legislation—a field which does not want much of being coextensive with the whole field of thought and action; and this, with your unexampled brilliancy of imagination, you will deal with better than anybody else could do.

"Now for a convivial gossip at this Hermitage: I hope neither gout nor anything else will hinder you from appointing an early day for it. Meantime, you will have looked over it, and marked any such passages as you think had better be omitted or changed.

"Should anything prevent your taking upon yourself this holy function, Joseph Hume has promised to take it upon himself; and if you perform it, you will have him for a certainty for your support, and he accordingly will be furnished with a copy in time: so likewise O'Connell, who, they say, shines more particularly in reply,—in reply in the generality of cases; but in this case, his assistance at that period will be more particularly desirable, on account of the grimgribber matter which the matter of my petition will, if it receives any determinate answer, elicit from opponents. But what I should rather expect is, that they will not dare to grapple with it, but fabricate a pretence for getting rid of it, out of a quirk composed of some vague-generality phrase, or move the order of the day upon it, &c., &c.

"Lest they should be prepared with a stratagem of this sort, I shall propose to Hume and O'Connell, as well as yourself, to keep the matter secret between you three, till the very moment of making the speech, for which you will naturally select a time when there is a good attendance.

"O'Connell I see has given notice of an intended motion for Codification. This is without concert with me; and I shall beg of him in time to let drop that motion; and, instead of making it, to take upon himself the function proposed to be allotted to him as above-mentioned. —Yours most truly.

"P.S.—Excuse the *non-autography* of this epistle. All my few remaining minutes are (you know) counted. My writing time I devote to Codification. Letters, &c., I dictate at times when I cannot write—for example after dinner, while vibrating in my ditch—in the ditch opposite the chair which (I hope) you will occupy in a day or two.

"The present place of your existence being unknown to me, and consequently the fate of the accompanying packet appearing more or less problematical, let me beg the favour of a single line to

inform me of the receipt of it, without waiting to speak of the contents."

But Burdett did not undertake the task. He answered Bentham that he would consider of it; and Bentham considered this as a withdrawal.

Bentham having sent his "Official Aptitude Maximized, and Expense Minimized," to Sir James Graham, because he had signalized himself in defence of economy, was much gratified by his acknowledgment of the receipt of the book in these terms:—

SIR JAMES GRAHAM TO BENTHAM.

"*Grosvenor Place*, 19*th June*, 1830.

"SIR,—Permit me to offer my sincere thanks for the present of your valuable work, which I shall study with the respect due to the productions of the most enlightened and honest jurist, every mark of whose approbation is regarded by me as an honourable distinction.—With sincere respect, Sir, your faithful and very obedient servant."

EDWARD LIVINGSTON TO BENTHAM.

"*Montgomery Place*, (*New York*,)
"*July* 1, 1830.

"SIR,—I thank you sincerely for the valuable books with which you have enriched my library, and the kind and instructive letter by which they were accompanied. These favours would have been sooner acknowledged, if they had not arrived just before the closing of the Session of the Congress, when all the business, which the procrastination, prevalent I believe in most legislative bodies, had put off from day to day, is pressed forward, and renders a week or two before the adjournment a very laborious period for those who wish to do their duty. Escaped, at length, from the bustle of public life to a retreat I have on the banks of the Hudson, I devote my first leisure to the cultivation of a correspondence from which I expect to derive as much profit and pleasure in its sequel, as I have already derived instruction from its commencement. Not having kept a copy of my letter to you, I did not perfectly recollect its contents; and my only fear, on hearing that you had published it, was, that it should have imperfectly expressed how much my work is indebted to yours for those parts of my attempts to reform the laws of my State, which have found favour from the public. From the printed copy you have sent me, I find this apprehension was well-founded; and therefore take pleasure in acknowledging, that although strongly impressed with the defects of our actual system of penal law, yet the perusal of your works first gave method to my ideas, and taught me to consider legislation as a science governed by certain principles applicable to all its different branches, instead of an occasional exercise of powers called forth only on particular occasions, without relation to, or connexion with, each other. I have lately observed, with great pleasure, the just homage that has been paid to your talents and services in the British House of Commons, rendered more valuable by its coming from a statesman and lawyer of the first eminence in the kingdom. It must be a matter of the highest gratification to you to witness, not only the prevalence of your doctrines, but to hear their truth acknowledged by those whose professional prejudices they so severely attack, and whose pecuniary interest they tend to destroy. I think I understand the outline of your plan for the gradual amelioration of a written code, without the aid of judicial decisions, and thus obviating one of the strongest objections that is made to a system of written law; but I should wish exceedingly to see the outline filled up, for I feel some pride in having made a similar proposal in relation to our Civil Code in the year 1823, and I wish to see whether your details can be applied to the general proposition I then made: you will find it from page 8 to the end of a short report which I enclose. It supersedes the necessity for that which one of our most celebrated jurists (Mr Duponceau) calls the *malléabilité* that is found in the common law; that is to say, the permission it gives to judges to make *ex post facto* laws. The plan traced in this report

was not pursued. The gentlemen joined with me in the commission, were unfortunately too impatient for the completion of this task to enable them to do the work in the manner we had proposed. I was overruled; and the Civil Code was reported and sanctioned in the form you will now see in the copy sent to you. Yet, imperfect as it is, it has been a great blessing to the State; but not greater, I think, than the rejection of the common law procedure in civil suits. A simple system was substituted, based upon the plan of requiring each party to state, in intelligible language, the cause of complaint, and the grounds of defence. I comprised it in a single law of a few pages; and although, from its novelty, many questions may be naturally supposed to arise under it, before the court and suitors become accustomed to its provisions; yet our books of Reports, from 1808 to 1823, contain fewer cases depending on disputed points of practice, than occurred in a single year, 1803, in New York, where they proceed according to the English law, which has been in a train of settlements by adjudication so many hundred years. An anecdote to exemplify this may not be unacceptable to you. When I was pursuing my profession at New Orleans, a young gentleman, from one of the common-law States, came there. He had been admitted to the bar in his own State, and was, of course, entitled to admission in ours, if found by examination sufficiently versed in our laws: he had studied them, and was ready to undergo the examination, but expressed to me his regret that a long time must elapse before he could make himself master of the routine of practice, with which on our system he was entirely unacquainted; and, asking to be admitted into my office until that could be effected, requested me, with much solicitude, to tell in what period I thought he might, with great diligence, be enabled to understand the rules of practice, so difficult to be acquired according to the common law. I answered, that it was not very easy to calculate to an hour, but as he was engaged to dine with me the next day, at four, I thought I could initiate him in all the mysteries of the practice before we sat down to dinner; nor was there any exaggeration in the statement. What will your articled clerks, tied for seven years to an attorney's desk, say to this? I have hitherto been too busily employed in extracting the good from your works to think of making any objections to any part of the doctrines they contain; and, indeed, it has happened so frequently, that on the second perusal, my assent has been given to positions which I thought unsound on the first, that I always hesitate long before I venture to deviate from them in any of the provisions of my Code. I have in some instances done so; and although I cannot immediately comply with your request of stating the reasons of my dissent from you in those points, yet it shall hereafter be done, and, as you desire, fully and frankly.

"I knew before the receipt of your letter, that I was under great obligations to Mr John Smith; but was not aware, till you apprized me, of those I owe to Dr Southwood Smith, to whom I shall soon write to express my acknowledgments. To Mr John Smith I sent, by Mr M'Lane, a copy of my projected Code, and had written to him twice before.

"You will naturally inquire whether my system has been adopted by the States which commissioned me to prepare it. I am sorry to say that they have not yet taken it into consideration. A joint committee of the Senate and the House of Representatives, was appointed last year to examine it during the recess, and report upon it at the succeeding session; but the prevalence of the yellow fever, and other circumstances, prevented them meeting: the next winter, I hope, will find them disposed to pass upon it.

"In the other States, advances are making to free themselves from the reproach of being governed by unwritten, and therefore, unknown laws: none have, however, progressed so far as to form a general system: methodizing their statutes, and giving the force of law to some of the judicial constructions of them, is the present extent of their daring.

"If cheap editions of some of your

works could be struck off, it would aid the great cause; but our lawyers are all politicians, and our politicians are all party-men, and party-men in all countries are alike. To you I need not describe their characteristics, or point out those causes which render them indifferent to anything unconnected with their prevailing passion. The mass of the people, therefore, must be first enlightened by a knowledge of your principles, before their representatives can be persuaded to act upon, or even to examine them.

"I send with this letter a copy of the Civil Code of Louisiana; a number of the papers printed by order of the Senate, or House of Representatives, some of which may prove interesting to you; together with a number of other pamphlets relating to the civil and criminal statistics and institutions of the several states. My Code of Evidence is printed, but I will not submit it to your inspection until the introductory report, which is nearly finished, can accompany it.—With sentiments of the highest respect and esteem, I am, Sir, your most obedient servant."

An invitation to General Santander gives an amusing description of the *quò eundum*, in order to reach Bentham's abode.

(Translation.)

"*1st July*, 1840.

"Dinner with the Hermit, at the Hermitage, a quarter past seven on Monday. On entering St James's Park by the gate, called Storey's gate, at the end of the street called Great George Street, you will find yourself in the alley called the Bird-cage Walk: midway in this alley are the barracks for recruits. Before reaching this building, you will see a garden entered by an iron-rail gate, near the barracks, where you will see a sentinel. Having entered this gate, you will find yourself in a narrow path, which takes you in a straight line to a walk, where there is another iron gate, which you will find open. Enter by it, and you will find yourself in another garden, on the left of which is the house I inhabit. You will mount by a step, which takes you to a door; and you will find yourself in a small hall, with a staircase before you, and a small chamber at the left, at whose door you will knock: as to porters, or other men-servants, they are a sort of animals not kept in my den."

General Santander to Bentham.

(Translated Extract.)

"*Hamburg, 29th July*, 1830.

"Bolivar is acting prudently, in giving way to that general opinion which is opposed to his permanence at the head of public affairs. It would have been happy for the reputation of his country, and for his own, had his retreat, like that of Scylla at Rome, been voluntary. But we withdraw, leaving Colombia the prey of hostile parties—divided into two camps, just ready for civil war. Instead of giving us peace, tranquillity, and freedom, he bequeaths hatreds, and resentments, and passions—a demoralised army, and a wretched example. What has his unhappy dictatorship brought to Colombia, and his overthrow of the Constitution of 1821? His daring has not had even the justification of success: his despotism has torn Colombia into pieces by factions and discord, and filled honourable families with mourning:—the scaffolds of criminals have streamed with the blood of honest citizens. Immorality and anarchy have triumphed; and Colombia has been dragged back to fanaticism and ignorance. In the last three years, Bolivar has sullied all the glories with which his perseverance, his boldness, his activity, his disinterestedness, and many other virtues, distinguished him during the War of Independence. Alas! the same sword which overthrew Spanish domination, has destroyed the liberties of the Colombian people!"

In 1830, were published De Montrol's Memoirs of Brissot, from which a quotation has been given in the early part of the work.* The author, in transmitting his work to Bentham, says:—

* Chap. viii.

(Translation.)

"Allow me to address to you the memento of one who is celebrated in our revolutionary history, by the virtues of a noble life, and the courage of a noble death. You will read, not without pleasure, his record of the friendship which bound you and him together: his eulogium will seem more flattering, dictated as it was by the most austere of our Republicans, in a moment when he never dreamt of disguise." M. de Montrol says, the genuineness of the *Memoires* has been impugned; and calls on Bentham to authenticate the fact by his own knowledge. In answer to which, he writes: "I know not how any suspicion, as to the authenticity of the *Memoires*, can have arisen: I will mention one little corroborative circumstance. He refers to my habit of dining with my father in the house I now occupy, and at four o'clock: a circumstance so trivial, so unconnected with anything important, so little likely to be mentioned, could be known only to an intimate friend.

"Time has made sad ravages on my memory; and especially on those parts of it where foreign languages were stowed away: so, if you use this letter, you must do what Voltaire did with Frederick the Great's poetry—or what Dumont did for me, by translating my Anglo-French into veritable French."

The following is titled — "*Note by Jeremy Bentham on one of the Letters of Brissot de Warville to him, anno* 1784, *or thereabouts*":—

"*London, 20th July*, 1830.

"In one of his letters to me, my friend says:—'*Votre sécheresse me désole.*' Of the contents of this letter of mine, I have no recollection. Sure I am, that there could have been nothing angry in it, or *positively* unfriendly; and, accordingly, by this same word *sécheresse*, nothing *positive* is indicated—nothing more than perhaps the absence of some of those expressions of affection which would naturally find their way into my addresses to him. Perhaps the cause of this complaint of his may have been *this*, namely: that on this occasion, my letter to him was nothing more than a mere letter of business: some little money transaction between us on the occasion of books and periodicals sent to me by him from Paris at my desire; from it will be seen the chief subject of this little correspondence, in which he will be seen drawing on me for a sum of £5 odd, which I accordingly paid. What I have always borne in memory, is, that the articles he sent me were not exactly those which I had desired him to send; but that what they wanted in quality, was in some measure made up in quantity, being such as he could come at on easiest terms. In those days I was very poor, but my friend was still more so. He was in want of the little sum of money in question to be paid in London, where I was. I paid the draft and accepted the articles whatever they were, which were sent in compensation for it. The *sécheresse* he alludes to, may, perhaps, have had for its cause, the disappointment thus experienced by me. That, upon the whole, there was no want of kind feeling on either part, is surely not unsatisfactorily shown by the manner in which he speaks of me in his *Memoires*. A friend here, on reading this word, *sécheresse*, put it to me, whether I would not keep back this letter: it would have been the simplest way, and would have saved me the time employed in this explanation; but the idea of suppression was not pleasing to me—that of misrepresentation and insincerity seemed associated with it."

BENTHAM TO THE DUC DE BROGLIE.

"*August* 13, 1830.

"The *opinion* with which I was not long ago favoured by you on the subject of Imprisonment for Debt, afforded me the heartfelt satisfaction of beholding in you a friend to justice. It is not, however, by that, or any other isolated and unconnected operation on the field of procedure, that the ends of justice can be accomplished, and the benefit of the services of the functionaries belonging to the judicial department imparted to all who stand in need of it.

"In this respect, Buonaparte's Codes have made a prodigious advance beyond anything that ever went before them, and present to view a pattern of perfection in comparison of that system of abomination under which I have had the misfortune to live, and which so large a portion of my long life has been occupied in the endeavour to expose to that full and general abhorrence which must take place before any effectual reform can be accomplished.

"But the system, the greater part of which is exhibited by these Codes, will, if I do not grossly deceive myself, be seen to be yet at a sad distance from that degree of perfection which the nature of the case admits of. After all that has been done by it, it leaves the benefit of justice still out of the reach of the vast majority of the whole numbers of the people: for besides the fees which it attaches to all the several operations and written instruments which it necessitates, it supposes and necessitates, on both sides of the suit, the intervention of professional assistants or substitutes of the parties under the name of *Avoués*, behind whom link, without being once held up to view by any of the Codes, the further and still more expensive assistance of *Avocats*, on both sides of the suit. What is the consequence? That those who are utterly unable to purchase the assistance of these professional men, without breaking in upon their own means of subsistence, must go without justice—must submit to depredation and oppression at the hands of all those who are content to pay the price of this maleficent service: the expense on the plaintiff's side, having the effect of denying remedy to wrong in every shape; and that on the defendant's side, of lending the assistance of the several functionaries, official and professional, together with the use and service of judicatories, in the infliction of wrong in every shape, for want of the means of defending, on the occasion in question, his just rights.

"As to the *Cour de Conciliation*, in name it affords remedy without expense,—remedy accessible to all without distinction,—without that distinction which has place between those who are, and those who are not, in condition to defray the expense.

"But the supposed remedy is little better than an empty name; and against those against whose machinations the demand for justice is most urgent, it amounts absolutely to none,—I mean the whole class of *mala fide* suitors: suitors whose plan it is, by means of relative opulence on their side, coupled with relative indigence on the other side, to engage on their side the power and services of the judge; to their case this same supposed remedy is clearly inapplicable. By resort made to the Reconcilement Court, their plan would be defeated; and they are under no obligation to resort to it.* To the ordinary courts, and to these alone, they apply themselves; for there it is that the faculty of depredation, or that of oppression, whichever it is that is most to their taste, or both in one, is upon sale, ready to be exercised at the expense of whatsoever relatively indigent individual they have marked out for their victim.

"Unfortunately for mankind, the interest of professional lawyers on this ground is in a state of direct and inexorable opposition to the interests of the rest of mankind; and the same everywhere,—in the unchangeable nature of the case, the influence of that body can never cease to be very great.

"The interest of non-lawyers is, that in the business of procedure, expense and delay be at a *minimum;* the interest of professional lawyers is, that those evils be at a *maximum:* expense for the sake of the lawyer's profit, of which, in so large a part, it is composed: *delay* for the sake of the occasion it produces for expense.

"Under the English Judicial Establishment, official lawyers are large partakers of that same sinister interest: under the French to a comparatively minute extent, if any.

* Bentham seems not to have been aware, that, in Denmark, all suitors are *compelled* to resort to the Courts of Conciliation; and can only commence proceedings at the ordinary courts when the Conciliation Court has certified that a doubtful point of law is at issue between the parties.

"If reaping pecuniary profit in proportion as the ends of justice are contravened by them, and their professed duty thus violated, *is not corruption*, I know not what *is:* if not, it is, at any rate, something worse, being practised by wholesale, and in the instance of every individual suit whatsoever; whereas, in the mode styled bribery, it has never, by the most abandoned offender, been practised but in here and there a suit: and the money being received under the name of fees, the act of maleficence (for be it understood it is not *an offence*) is practised with the full assurance of impunity; and the profit, direct and (by means of patronage) indirect together, is so enormous, that you would find difficulty in giving credit to it.

"I am wandering, and must have done.

"In a word, the object of the liberty I am thus taking is this. Notwithstanding all that has been done (and it is no small matter) by Buonaparte and his draughtsmen—his codifiers, towards the remedying the cost, still in France the benefit of justice remains inaccessible to a very large portion of the community,—I believe far the largest; and to another vast portion is not attainable, without a grievous and most oppressive tax paid to the professional lawyers, the sum of whose enjoyments from that source bears but a very small ratio to the sum of the sufferings produced by the same cause in all other breasts.

"In this state of things, notwithstanding the comparative disinterestedness and generosity of the French character, any such expectation as that of finding, in the instance of the influential portion of the body of professional lawyers, any sincere coöperation with anything other than the most determinate opposition to any plan well adapted to the diminution of their own profit, would be altogether inconsistent with any the smallest insight into human nature.

"The object of this is, therefore, to endeavour to learn whether I may entertain a hope of a disposition on your part to contribute in your country, by your endeavours and your influence, towards the removal of so cruel an evil as that in question, and to honour me with your coöperation towards that end. Dr. Bowring obliges me by being the bearer of this letter: he is my most intimate and confidential friend, and a man so well qualified for giving all the required and desirable explanations is not to be found.—I am, Sir, with the most sincere respect, yours, &c.

The Duke replied, that he hoped, when the agitating events were passed, which then occupied every public man's attention in France, he should be able, "*à tête reposée, et avec maturité d'esprit*," to occupy himself with the important subject of Law Reform.

On the Revolution of the Three Days in France, it was Bentham's intention to address a series of letters to the French people. Only one, however, was written, as follows:—

BENTHAM TO THE FRENCH PEOPLE.

"*Queen's Square Place, Westminster,*
"*London, August,* 1830.

"FELLOW-CITIZENS,—'Your predecessors made me a French citizen. Hear me speak like one.' So said I, anno 1793. So say I now, anno 1830.

"I have written, and I have written. I have written, and I have torn.

"I had then been more than twenty years occupied in the study of what belongs to the happiness of nations;—thirty-nine more years have been added to those twenty. I was then somewhat known among you: I am at present, I hope I may say, somewhat better known. There are those who have said to me—'Speak now again to these your fellow-citizens: what has these forty years been your right, is now become your duty.' Hearing this, I took up the pen.

"Circumstances have been changing every day—circumstances continue changing every day—circumstances will change every day; but principles remain unchanged. It is from them I speak to you.

"A proclamation of La Fayette lies before me. It is that which was issued

by him on accepting the command of the National Guards of Paris. Date of it, August . . . . In this behold my text—at any rate my *main text*. In it I read these words :—'Parisian energy has reconquered our rights. . . . . Nothing is definitive but the sovereignty of those rights.' Thus far the veteran hero whom it so delights me to call my friend. Now for an observation which to some may appear a trifling one.

"Rights are fictitious entities—*the people* real ones. Realities, on this occasion as on all others, realities I prefer to fictions—even the most innocent ones. Realities—I understand them better. But should my friend say to me—'Our fellow-citizens will understand us better if we say *rights*'—even so let it be. Let us say what we will, our meaning is the same.

"Think you this is a question of mere words? Not it, indeed. I will tell you why I say *people*. In '*the Sovereignty of the People*,' I behold a locution which, even in the sink of corruption from which I write—even in this seat of ill-disguised despotism, has, at public dinners, been for years a not unfrequent toast. It comes *before*, 'the King;' and not for these many years, if ever, has any servant of the king dared prosecute for it.

"So much for the *Commandant of the Parisian National Guards* and *his* Proclamation.

"Now for the *Lieutenant-general of the Kingdom*, and *his*.

"'Attached by inclination and conviction to the principles of a free government, I accept beforehand all the consequences of it.' This delights me: this is good sense: this is good logic. 'All rights must be solemnly guaranteed, all the *institutions necessary to their full and free exercise*, must receive the *developments* of which they have need.' This, though in letter-press it stands antecedent to what is said as above of *principles*, is, in *reason*, one great consequence of it; but to '*developments*,' I should have preferred *modifications*, or, to speak out, *changes*.

"Now for interpretation: from words I pass to symbols. 'I hastened,' (says in that same document this same functionary,) 'I hastened,' (so and so,) 'wearing those colours, which, for the *second* time, have marked among us the triumph of liberty.' Here there is one *change*, and that a *speaking* one. And what is it that it speaks a second time, if not that which it spoke the *first* time—*the Sovereignty of the People?*

"While writing what I have been tearing, I had before me another text—'*the Charter is a truth.*'—Charter?—I do not like—I never liked the sound. Charters and the Sovereignty of the People cannot have existence, in the same place, at the same time. Admitted into the Chamber of Legislation, I behold the Sovereignty of the People throwing the Charter out of the window.

"Oh, would but some prosperous breeze blow it over to London! I should pick it up with transport—stick it on my hat, and cry—Charter for ever! Yes: this refuse of France would, for England, be a feast. Behold here (I would say) Magna Charta the second! Magna Charta the first has been long worn to nothing—trodden under foot by *our* Holy Brotherhood—the Lawyers. Before this clear and ably-fashioned reality, that miserable fiction—*matchless Constitution*—that maleficent phantom, which every corruptionist makes for himself—makes for his own purposes—makes, on each occasion, out of his own leaven—would flee away screeching, and drown itself in our Thames.

"'Let no evil ever be lessened. Let every existing evil (as does all evil, unless nipt by remedy) receive continual increase.' This is what is meant by—for incontestably this is included in—that which is said by those who say, 'Let us have no change.' 'Let all evil be perpetual,'—this would be too much to say; this is what in those same words they dare not say. They therefore *change* the words: which done, they say, 'Let us have no change;' and out of these words they make an established principle.

"There you have the principle: now, think of the consequences. What, if this had been the principle when William the Second of England kept laying waste the country, to convert it into

hunting-grounds? What, if when Louis the Fourteenth of France laid waste the Palatinate to make a frontier of it? What, if having by Louis the Eighteenth been put into a charter, and by a successor of his that same charter declared to be a *truth*, that declaration were to become *law:* and that law an immutable one? the ceremony of an oath having, moreover, as by Art. 74. of the same charter, been called in, and supernatural terrors added to all natural ones, for the pious purpose, and in the pious hope, of preserving for ever all evil from diminution,—wrong, in all shapes, from all remedy? 'Le Roi *et ses successeurs* jureront, dans la solemnité de leur sacre, d'observer fidèlement la présente charte constitutionelle.'

"Behold here, my fellow-citizens, one of the rocks, which in many places and many times,—perhaps in all places, and at all times, when occasion presented itself,—men, old in power, and men new in power, have joined in splitting upon.

"Let *things as they are* continue unchanged for ever, has, in all places, and all times, been the cry of all those who, reaping good for themselves from the evil done by those same things to other men,—good, in justification of which no direct and undeceptious argument was to be found,—sought refuge for it in this fallacy.

"Nor was this fallacy without an outward show of truth. 'All change produces *preponderant* evil,'—this would be too manifestly false,—to all eyes, too clearly so,—to be advanced by anybody. But, 'All change produces evil,'—this, it cannot but be confessed, is little less than true. But, '*All change produces preponderant evil*,'—nothing less than this would serve to preserve from the reproach of maleficence, universal and perpetual maleficence,—the *no-change* principle.

"So much for power when *old*. Now for power when *new*.

"This constitution is perpetual and unchangeable. Such, in these terms, or what is equivalent to them, (for there is not time to look for them,) was the declaration of our *first* National Assembly. Add to this, so of every *other*.

"Altogether natural is this: for, to every man in power, natural is a mixture of intellectual and moral weakness,—of folly and maleficence. For, mark well, my fellow-citizens, the propositions that are involved in it.

"1. No change that can possibly have place in the state of *things*, or in the state, conduct, and disposition of men, can be such as to render it contributory to the greatest happiness of the community, to make any change in the changes which we have been making for that purpose.

"2. We, who compose the majority of the body to which we belong,—we are to such a degree *wise*, that there exists not any the smallest probability, that, at any future point of time, those who have then succeeded to us will be equally so.

"3. We are, moreover, to such a degree good that there exists not any the smallest probability that, at any future point of time, those who have then succeeded to us will to *wisdom* equal to ours, have added *goodness* equal to ours.

"So much for 1791, or thereabouts. Now for 1822, or thereabouts. Then came the *Spaniards*, with their constitution. More modest *they* than we were. In their view years, during which the state of things and persons would be so sure to continue without change,—not more than *four:* years, during which matchless goodness would be so sure to continue in union with matchless wisdom, not more than the same number: all this while, provided the *body* were but called *the same*, no matter how different the individuals.

"Farewell, for the present at least, my beloved, my now so much more than ever admired, fellow-citizens. I have done what I have felt to be in my power, towards laying the foundation, a necessary foundation for all future good, for remedy to all existing evil. I have blown up (I hope you will think I have) the dead-weight I saw the ground encumbered with,—the *no-change* principle."

Rammohun Roy brought to England the following Letter of Introduction to

Bentham from a highly valued correspondent:—

"*Calcutta*, 14*th November*, 1830.

"MY DEAR AND VENERABLE FRIEND,—This letter will be presented to you, or transmitted, waiting your leisure, by no less a person than the distinguished Rammohun Roy.

"You have heard of him often from me, and from others, and know that he is one of the most extraordinary productions of the 'march of intellect.' A Brahmin of the highest order, and therefore an aristocrat by birth; one of the privileged class, and a man of easy fortune by inheritance; deeply learned in Sanscrit, Arabic, and everything oriental; he has, nevertheless, unassisted, and of himself, been able to shake off prejudice of almost every kind, and to give his natural understanding fair play.

"If I were beside you, and could explain matters fully, you would comprehend the greatness of this undertaking. His going on board ship to a foreign and distant land—a thing hitherto not to be named among Hindoos, and least of all among Brahmins. His grand object, besides the natural one of satisfying his own laudable spirit of inquiry, has been to set a great example to his benighted countrymen; and every one of the slow and gradual *moves* that he has made, preparatory to his actually quitting India, has been marked by the same discretion of judgment. He waited patiently, until he had, by perseverance and exertion, acquired a little but respectable party of disciples. He *talked* of going to England from year to year since 1823, to familiarize the minds of the orthodox by degrees to this step, and that his friends might, in the meantime, increase in numbers and in confidence; as it was of the utmost importance to the preservation of his rank and influence with the Hindoo community, who care less about *dogmatics* than *observances*, that he should continue one of 'the Pure,' and should not be suspected of quitting Hindooism for any consideration of a personal nature. He has externally maintained so much and no more of conformity to Hindoo custom, as his profound knowledge of their sacred books enabled him to justify—relaxing, however, by little and little, yet, however, never enough to justify his being put '*out of the pale*.' I need not say that in private it is otherwise, and that prejudices of all sorts are duly contemned by our philosopher. But so important does he judge it to the efficacy of his example, and the ultimate success of his honourable mission of experiment, that he should maintain the essentials of his Brahminical sanctity—that even in the flagrant and outrageous act of making this voyage and sojourn, he is contriving to preserve appearances to a certain point, which he considers sufficient to *save his Caste*, so that on returning, he may resume his influential position against the abuse and calumnious reports which the whole tribe of bigots will not fail to raise against him while in England, and when he comes back. He now judges that the time is come, and that the public mind is pretty well ripe for his exploit; and he embarks in two or three days in the *Albion*, for Liverpool; where he has friends and correspondents in Cropper Benson, and others of liberal feeling.

"The good which this excellent and extraordinary man has already effected by his writings and example, cannot be told. But for his exertions and writings, Suttee would be in full vigour at the present day, and the influence of the priesthood in all its ancient force; he has given the latter a *shake*, from which, aided by the education and spirit of bold inquiry gone forth among the rising nations of Hindoos, it never can recover. I need hardly tell you that the liberalism of such a mind is not confined to points of theology or ritual. In all matters involving the progress and happiness of mankind, his opinions are most independent; and he is, withal, one of the most modest men I ever met with, though near fifty years of age; and though he is the most learned and enlightened of his countrymen and nation, and indeed has held that position for the last fifteen or twenty years, and has received praises enough to have turned the head of any other man alive.

"It is no small compliment to such a man that even a Governor-general, like the present, who, though a man of the most honest intentions, suspects every one, and trusts nobody, and who knows that R. M. R. greatly disapproves of many acts of government, should have shown him so much respect as to furnish him with introductions to friends of rank, and political and *Indian* influence. Either they will find him intractable, and throw him off, or they will succeed in what no one hitherto has succeeded—in beguiling or bending the stranger.

"A stranger, however, he is, and of such sort as has not before appeared among you; and he will stand in need, doubtless, of all the kindness and attention that friends here can procure for him. *You* have weightier and other matters to occupy you; nor are your habits such as to enable you to be of service to R. M. R. in the ordinary way. Yet I felt assured you would like to see and converse with my Indian friend; and, indeed, I recollect you expressed such a wish. For the rest, you will probably make him over with his credential to our friend, Bowring, and the reprobates,* and Stanhope.

"I most truly rejoice to hear and to see printed proofs that you continue to enjoy your accustomed health, strength, *and spirits*. No one among all whom you know wishes more truly and earnestly than I, that you may continue to enjoy those blessings for the sake of us all.—Your affectionate and attached friend."

BENTHAM TO LA FAYETTE.

"*London, 2d Nov.*, 1830.

"MY EVER DEAR AND HONOURED FRIEND,—I have done my best towards executing your commands about second chambers.†

"Through a private channel, I embrace the opportunity of sending to you two copies of a tabular view of the composition of our House of Commons,‡ from the *Spectator*. This dissection might (I thought) in one way or other, be matter of curiosity, and eventually even of use, not only to yourself, but even to our 'King of kings,' considering how well he is acquainted with our *Carte du Pays*. In addition to what the table exhibits on the subject of patronage, let me tell you, that whole classes of commercial men have for supporters their representatives, namely, those of the West Indies, and those of the East Indies: and in former days the Nabob of Arcot alone had to himself a number of them—I do not remember the exact number, three or four at least—all located at his expense, and paid or not paid besides. In those days the price was not more than £3000 or £4000, namely, for sitting as long as the Parliament lasts. In the only two instances that have come to my certain knowledge, it has been just now as high as £6000; a more common price is (I believe) £5000. Some have hired a seat by the year, and paid £1000 a-year, which, when it can be managed, seems to be the most prudent course."

I insert an interesting conversation between O'Connell and C. Sinclair Cullen. It took place on the 7th November, 1830—it was communicated to Bentham on the 8th, and on the 9th Cullen died—died suddenly, while in the apparent possession of health. Bentham considered him one of his dearest friends:—

Headed in Bentham's writing.

"O'Connell's Conversion to the Anti-Second-Chamber-Faith, 7th November, 1830.

"*Copy of a Statement written at Q. S. P., by Cullen.*

O'CONNELL to CULLEN—spontaneously, in the course of a conversation on other matters, November 7, 1830—"I have read Bentham's letter to La Fayette. It has made a convert of me to one Chamber. I was prejudiced in favour of two Chambers. When I took up the pamphlet, I said—'No—he is wrong here: Bentham will be unable to persuade me of this.' But he has

* Bentham's Secretaries.

† See the tract on Houses of Peers and Senates, Works, vol. iv. p. 419.

‡ Three or four editions have been sold of it in the compass of two days.

convinced me. I did not yield to his reasons in the first few pages—but as I advanced, I found the chain of reasoning not to be broken; and, taken altogether, I think it conclusive.

CULLEN.—"I never could see a reason for two Chambers—but I could not have proved it, as Bentham has. I am glad he has emancipated you. It will simplify your scheme for Ireland. Indeed, it is a great thing for the world to undeceive them on this subject. The delusion about a Second Chamber has involved all the constitution-makers and liberty-founders in delays, perplexities, contradictions, and mystifications, that have proved injurious or ruinous to freedom. It is a grand thing to have made the road to a sensible constitution easy and plain, by clearing away the rubbish and superstition of a Second Chamber, as Bentham has now done, for ever."

BENTHAM TO BROUGHAM.

"*Q. S. P.*, 19*th Nov.*, 1830.

"MY DEAR BROUGHAM,—It is with no small gratification that I heard Doane's account of the kind mention you made of me in the short conversation he had with you this day: finding thereby that the state of your affections towards me harmonizes so exactly with that of mine towards you. Whatsoever may be in the *Westminster Review* notwithstanding, be assured that no sentiment of personal hostility has ever had place in anything I have said of you there or elsewhere.

"It is accordingly truly delightful to me to see such good reason for believing that no considerable, if any, uneasiness has been produced in your mind by what has been called my '*truculence:*' for assuredly, if you were sitting opposite me, (as I hope you will shortly be ere long,) it would not be possible for me to witness any symptoms of uneasiness on your brow, without imbibing, through the channel of sympathy, more or less of it. Not that in substance my course would be altered by any such irrelevant observation: for, if you were my brother in the flesh, instead of being my *soi-disant* grandson in the spirit, (Oh, naughty boy!) never could I sacrifice to my regard for any individual that affection for my country and mankind, to which my whole soul has been devoted, for I forget how much more than threescore years. As I am dealing with you, so dealt I by my friend Romilly: for, on the occasion of the *Westminster election*, he being, in my phrase, *no better than a Whig*, I wrote against him in favour of —I forget who, (Douglas Kinnaird, I believe,)—of whom I knew nothing, but that he stood upon Radical ground. What the *Review* has said of you, either this time or the former time, I know not; nor do I think I ever shall. Sure enough did I send in the *meat* for that meal; for it was what nobody else could have done; but, as to the dressing, I neither know how it was done, nor who were the cooks.

"I have understood that it was you that let slip the dogs of war at me in the *Edinburgh*, and perhaps elsewhere. The more there are of them, the more tickled I shall be; and in so all-comprehensive an assurance you would find a good and valid license, should you ever suppose yourself to have need of any such thing.

"I have my views, you have yours; but, in all other respects, I am—yours most truly, &c.

"P.S.—Since writing the above, I have heard (for I cannot read) the *Morning Chronicle*, in which I see my suspicion, that your *Nolo Officiari* was *Nolo Episcopari* carnalised, confirmed, though not put absolutely out of doubt: I say since, and, I assure you, upon my honour, so it is. What to say to it, I know not. If I could assure myself, that by this change delay, vexation, expense, and denial of justice will not be increased, nor the abolition of those scourges rendered less probable or less speedy, it would be matter of sincere delight to me to see a mind such as yours turned aside from fee-gathering by the indiscriminate defence of right and wrong, by the indiscriminate utterance of truth and falsehood, and concentrated to the service of mankind.

"20*th November*."

BROUGHAM TO BENTHAM.

"*Hill Square,*
"*Sunday Morning, Nov.* 21.

"MY DEAR SIR,—Many thanks for your kind letter; but how could you listen to such a tale of tales as that *I*, of all your friends, ever could have let slip the dogs in E. R. at *you?*

"The truth is, I had a correspondence of weeks, and all but a rupture, with Jeffrey on the subject. He had got committed on the point before I could remonstrate, not having a conception of what was doing till I saw it on my table in print, and published.

"I succeeded afterwards in stopping the useless, and worse than useless controversy between varying or differing allies; for so it was,—not enemies.

"I want to see you one of these days; and when you summon me to dinner, I will attend; but don't make it next Wednesday, for I go that day to our society's monthly meeting.—Yours ever."

Memoranda made by Bentham in 1830:—

"Under a monarchy, the people are the idolators, who, after making the idol with their own hands, fall down and worship it.

"To blind their eyes, in order to pick their pockets: to blind their eyes, not as a hangman does, in order to consign them to an instantaneous death, but to blind them so as to make their death a lingering one.

"Matchless Constitution! J. B.'s creed.—

"I prefer the English constitution, such as it is, to non-government, and to every other but the United States' government. But I do not prefer it, such as it is, teeming with abuses, and other imperfections, to what it would be if cleared in the whole, or part, of all or any of these same imperfections."

LORD WYNFORD TO BENTHAM.

"*Jan.* 9, 1831.

"At Bath I shall have leisure fully to avail myself of your suggestions before any bills are in committee. I am happy to find that we differ but little (if we differ at all) as to the examination of the parties. I propose that the examination should take place immediately after an action is brought, and before any expense is incurred. I also approximate to your views, as I propose giving the judges authority to require security from plaintiffs, if it appear, from the examination of the parties, that a suit is hopeless, or vexatious. The establishment of a code of laws is a matter of great importance. I shall, with a mind perfectly unprejudiced, consider all that you have written on that subject.—I am, Sir, with the greatest respect, faithfully yours."

BENTHAM TO O'CONNELL.

"31*st Jan.* 1831.

"Once more. The proceeding by way of attachment in the case of the two Dublin printers brings to my mind a state of things which had place about sixty-five years ago, and does not seem to have attracted attention on the present occasion: it may, peradventure, by the mention of it, be rendered, under your management, serviceable to the cause of the people. Lord Mansfield, in those days Chief Justice of the King's Bench in England, was notorious for his absolutism. A project of his was, in cases which, by the constituted authorities, were regarded, or professed to be regarded, as abuses of the liberty of the press, to substitute to the trial by jury, trial by the Court of King's Bench alone, viz. by motion for attachment, followed by a quantity of affidavit work by writ of attachment accordingly; whereupon the defendant, having been taken up and committed to prison, had tendered to him, in the same prison, a paper of interrogatories, to which, whether by written instrument, or *vivâ voce*, I forget which, he was commanded to give answer. In this way a printer of the name of Bingley was dealt with: and while in prison, one of these interrogatory papers was tendered to him, and he was commanded to give answers, which answers he refused to give; and for this contempt, as it was called, he continued in prison for I forget how many years: nor do I recollect in what way his imprisonment terminated, whether by death or by dis-

incarceration. On account of this proceeding, and others of a similar tendency, my Lord Mansfield became the object of a very extensive and well-merited odium, insomuch that he became an object of attack to a man in so singular a situation for a libel-writer, as that of a Master in Chancery: the title of the libel was, 'A Letter concerning Libels, Warrants, Seizure of Papers, and Security for the Peace,' &c., 6th edition, 1766; followed by another, entitled, 'A Second Letter on Libels, 1770.'* The form in which expression was given to the imputations was, I remember, the hypothetical;—if any Lord Chief Justice should do so and so, and so on with a train of ifs, and, I believe, a pretty long one. In Clark's Law Catalogue, the sixth is an edition, and the only edition, of this pamphlet mentioned. From this you may imagine the run it had, and the sensation it made. The other enormities alluded to were acts of the secretaries of George the Third, whose abominable misgovernment, and endeavours to introduce absolutism, have been sufficiently brought to view. This case of Bingley I should expect to find in Burrowes' Reports; but neither time nor eyes admit my making search for it.' Between the application of the power of the judges without the jury, to the purpose of inflicting punishment for alleged offences committed by abuse of the liberty of the press, and its application to the purpose of punishing offences committed by physical resistance to, or non-compliance with, the mandates of these same judges, there is a very broad and clearly visible line of distinction. If punishment for such resistance or non-compliance were made to depend on the will of a jury, or of any other authority, other than that of the judges themselves, theirs would be a state of impotence, and the whole fabric of the judicial establishment would fall to pieces; whereas, in the case where the offence consists in alleged abuse of the liberty of the press, not any the least danger is there that any such consequence should follow; whatsoever be the attacks made upon them in this way, neither motives nor means can be wanting for engaging defenders, in any number that can be desired; whereupon a suit is thus carried on in the court of public opinion,—a court of dernier resort, which never acts under that corrupted and corruptive influence, under which the highest of the *soi-disant* courts of justice always act. The pamphlet is anonymous, nor is there in print, that I know of, this man's name as its author; but I had a slight acquaintance with the man, having been in his company, and to him it was ascribed by everybody. I cannot suppose that you will be under any great difficulty in finding out the 'materiel et personnel' of this war, in your libraries, public or private. My notion is, or say what I should expect to find is, that owing to the odium excited on that occasion, by this mode of proceeding, in the case of alleged abuses of the liberty of the press, it fell into disuse, and has never since been revived.

"I remember being present, in the capacity of a student, at the time of the discussions in that case of Bingley. Here are *facts*, meaning *indications*, of supposed facts: to you it belongs to find logic and rhetoric grounded on these facts.

"Written what is above, from dictation, made between sleeping and waking, by one who was once your correspondent, and even host, and will ever be your admirer and sincere well-wisher, though not always and without exception your approver."

O'CONNELL TO BENTHAM.

"*22d February*, 1831.

"I should have answered your letter sooner, and should have endeavoured, when I was last in town, to have seen you; but for a reason which does not belong to the characteristics of my countrymen—I mean a sense of shame. I am ashamed of my *inutility*. I had formed a confident hope, that my career in Parliament would be one of considerable usefulness. I had flattered myself that, in the British Senate, I could and should be able to advance the sacred cause of rational and cheap government,

* Said to have been written by Lord Ashburton, and corrected by Lord Camden.

and assist to cleanse the Augean stable of the law. My first mistake consisted in entertaining a high opinion of the moral worth and intellectual power of the House of Commons; and I shaped my course mildly and gently, in order to propitiate the opinions of men whom I respected. You have a right to despise rather than pity me for this gross mistake. The consequences are, a shipwreck of my Parliamentary fame, and the great difficulty I now have to assert a power, which, perhaps, would have been conceded to me, had I exerted myself strongly in the first instance. Under these circumstances, I am ashamed to call myself your disciple. I deem myself not worthy of your patronage or friendship; and I console myself only by working for useful objects in a lower grade, and endeavouring to make up by perseverance and moral energy, for the loss of the more brilliant prospect of usefulness which, I think, lay before me.

"But in every situation, and under all circumstances, your principles and your powers of mind are to me objects of cultivation and great respect. My respect, my veneration for you is unchanged and undiminished; and if you can point out anything in which you think so humble a labourer as I am can be useful, pray, pray command me. Rely on it, that the principles of legislation which you have advocated, are deeply impressed on my conviction; and if I can contribute to substitute real justice to the workings of Judge-made law, it will afford me pride and consolation.

"I write with a proud but wounded spirit—that is, my proud spirit is wounded and humiliated at the failure I have experienced, in my palmy hopes, of doing great and extensive good to mankind; and I feel under the necessity of limiting my exertions to the amelioration of the institutions of one of the finest, but most oppressed portions of the human race.

"In conclusion, I beg of you to accept my most grateful thanks for your letter—for your continued kindness—for your patronage—for your preëminent usefulness. I also beg of you to believe that your principles, founded as they are on plain sense and irreversible reasoning, form the cherished political creed of, my dear Sir, your sincere admirer and devoted servant."

BENTHAM TO O'CONNELL.

"26th *February*, 1831.

"MY DEAR O'CONNELL,—You have cried *peccavi*, come up this day se'ennight and receive absolution from," &c.

I do not know to whom this letter, on the Repeal of the Union, was addressed:—

PACIFICUS AGAINST THE CONQUEST OF IRELAND.

"SIR,—The debates on the occasion of O'Gorman Mahon's motion have just reached me. In the representation given of them in the *Morning Chronicle*, I behold a portrait of Honourable House. The portrait of Britannia will not, I hope, be a pendant to it. Honourable House has one object of regard. Britannia, I hope,—one of her children, I am sure, has another, and that a very different one. Honourable House has one end in view, an end at which it aims. Britannia I hope—one of her children, I am sure, another, and that a very different one. Honourable House has one principle by which its sentiments, and, when the time comes, its means, and proceedings, and will—in a word, its actions, if conformable to those its sentiments, are directed. Britannia, I hope—one of her children, I am sure, others, and those very different ones. The principle of Honourable House is the absolute government principle; the principle by which Britannia will, I hope, in her deeds—one of her children, I am sure, in his words—be guided, yes, and governed, is the greatest-happiness principle.

"On the part of Honourable House, (unless sadly misrepresented,) an almost unanimous determination stands expressed—I say expressed, for inward feeling is one thing, expression another; (and everywhere, and in Honourable House in particular, but too often a very different one,)—yes, a determination to coerce, and risk a civil war,

rather than to consent to the Repeal of the Union.

"Now, then, by what motive is this determination, supposing it to have place, produced? Is it by any regard to the happiness of the millions—of the millions on both sides, or on either side of the water? No such thing, Sir, this is not so much as professed; and though any such profession need not so much as ten or a dozen words, those ten or a dozen words are not thought worth the expenditure of, for the purpose of fixing a mark to intention and endeavours. Well, then, on the event in question, Sir, the M. P.s,—the M. P.s, to the amount of a few hundreds, are determined to go forth, to gird on their armour, and with fire and sword to lay Ireland waste, subdue the insolent Irish, and, by God's help, which it will cost them no more than one day's fasting to secure, to establish an aristocratical tyranny of the inhabitants of the one island over those of the other: laying it waste, in the meantime, with fire and sword for that godly purpose. Will they? so let them, then, with Mr Speaker for commander-in-chief, having first effected a junction with the force of the Right Honourable House, under the command either of the Lord Chancellor, the Archbishop of Canterbury, or the late commander-in-chief his Grace of Wellington, or Earl Grey, in his quality of First Lord of the Treasury, or in that of champion of his order, as it shall please the Right Honourable House to determine. Yes, Sir, I say once more, forth let them go. By steam they will go; and when from the steam-boat they have disembarked on the banks of the Liffey, let the Liberator and his fellows lay hold of them, toss them in a blanket, and then toss them back again into the steamboat, with fuel to fire them back again, or into the Liffey—no great matter which.

"To the transportation of this force, I say, Sir, I have not any the smallest objection, bearing in mind the proverb which begins with 'Good riddance;' but lest I should be called to order, what it continues and ends with, shall remain in *innuendo*. O yes: this force, so much of it as you will; the whole of it, if such be your pleasure. But as to any addition to it, 10,000 men, for example (not that such a number would be sufficient)—100,000 men? No: nor 10 men: no, nor a single man: no, nor half a man, nor so much as a ninth part of a man.

"For the achievement of this conquest, if to that band of heroes any addition be made, money and men will be necessary. Well, then, in the first place—the money, where is it to be found? From the people, so many millions sterling as will be required? No, not a penny, (I hear a voice crying,) no, not a penny of it. Not a penny will be had but from taxes. 'Refuse the Taxes,' is a cry that has been already heard, and on such an occasion, if on any, will be repeated.

"This will not serve the purpose, any further, than as they use the bayonet, or fire on those they are sent to kill; and suppose the 100,000, or any part of them should, when the word of command is given—the word 'fire'—may not the firing either be in the air, or, if it must be in a line parallel to the earth, may it not be in the direction in which it will meet the very leaders who have been above-mentioned?

"Here, then, agreed; agreed inwardly and outwardly, in profession, as well as object and endeavours, are the Tories and the Whigs. But the Radicals?—have they reckoned on the Radicals?—they did not say they had: they did not think it worth their while to say as much. But if, notwithstanding, they did inwardly so reckon, they reckoned, (I trust,) as says another proverb, without their hosts. Tories and Whigs in concert will make enactments—will issue orders. But the Radicals—what is it they will do? They will, I hope, present petitions; petitions, and the sooner the better: that thus, *in limine*, the plague of tyranny may be stayed, and the honest blood of both countries saved from flowing.

"'The bad example of Paris and Brussels,' forsooth! when the baroneted offspring of Spinning Jenny speaks thus, he speaks in character—he speaks as might have been expected. But Lord Althorp! I am sorry to see him join

in any such sentiments—much more to see him take the lead in them. But a few petitions from his brother balloters will bring back to his strangely-forgotten duty, this advocate of the ballot. Let them learn in time. Let them make haste to petition; and, with one accord, choosing for their presenter the first-born of Earl Spencer—put into his hand their petitions, that, by the presentation of them, the result of passion and humour, the fault of the moment, may thus be expiated.

"This, then, let the people petition for: and when they are about it, let them go a step further, and petition for the dismissal of the Ministry, by whom this declaration of war has been made: for their dismissal, not merely for this their bloody purpose, but for the so extreme discordance of their actions with their professions: for their sham Reform under the guise of half Reform: for their sham Parliamentary Reform: for their sham Finance Reform: sham Law Reform, with the learned paragon of insincerity, the *Vaux—etiam Vox et preterea nihil*—at the head of it.

"So sayeth, and so prayeth, though without fasting,

"Pacificus."

In 1831, Bentham took an active part in the formation of the Parliamentary Candidate Society. Its object was to direct public attention to the men who were most likely to forward the popular interests in the House of Commons. Among the parties whom Bentham was desirous of recommending, were Rammohun Roy, as a representative of British India, a half caste, and a negro, in order to subdue the prejudices of colour, and to hold out encouragement and hope to the rest of these races. Bentham wrote, on this occasion, credentials for some of his acquaintance, many of whom, so recommended, found their way into Parliament on the passing of the Reform Bill.

He was at this time much occupied with a project for establishing a new daily paper, to be called the *Universalist*. He wrote the Prospectus, and induced some of his opulent acquaintances to become shareholders; but the amount subscribed for did not equal that which was deemed necessary to ensure success, and which, I think, was £30,000.

On relating to Bentham some of the statements made in the North American periodicals, and which were likely to lower him in the good opinion of others, he gave me this memorandum:—

"*Jeremy Bentham. False reports that have been spread in the United States, in various periodicals, to his prejudice.*

"'1. That by singularities by which he is rendered an object of ridicule and a source of annoyance to others, he is held in contempt by all who know him or see him.'

"This had its origin in a letter which appeared several years ago in *The Times* newspaper. It was written, or at any rate the matter of it furnished, by a man of the name of Parry, whom, in May, 1830, Dr Bowring saw in the madhouse in St George's Fields.

"The story was, that being invited by Mr Bentham to breakfast and dine with him, he had no breakfast, and no dinner till ten at night; and that in a public street, on his way to a workshop in London, where Parry was to show him some engineering invention, such was the ridiculousness of his appearance, that he was insulted by a notorious prostitute. The fact was, that Parry breakfasted at Mr Bentham's; and, after his return to Mr Bentham's, dined at his usual hour, seven P.M., and left before ten, the hour he mentioned. As to the insult and the prostitute, it had no foundation whatever. Mr D——, a gentleman now at the bar, and who then was, and still is, an inmate of Mr Bentham's, was of the party.

"Parry, in the character of a workman, under Congreve, inventor of the rockets which go by his name, had acquired some knowledge of engineering. He was a shameless liar. One of his lies was the having refused £200,000 offered him at Washington by President Quincy Adams for one of his inventions. He was sent to Greece to serve under

Lord Byron; and by him was he much encouraged in quality of buffoon. He was conspicuous there for cowardice and for lying. The story in *The Times* imposed, as it naturally might, upon Mr —— of New York, and found its way into the *North American Review*.

"'2. That he is remarkably afraid of death,—so much so, that it is an object of special care to all his friends to avoid all allusion to the subject, in his presence, as much as possible.'

"He is as remarkable for the contrary as for anything else. This story has no foundation whatever. It must have originated in some strange misconception.

"'3. That he is afraid of ghosts.' This originated in a periodical publication published in one of the United States, by the editor, a man whose declared sentiments and affections towards Mr B. are friendly, and were friendly even to enthusiasm. It is the more likely to gain credit, the author of it having spoken of himself, and with truth, as having been for some time an inmate with Mr B. But for correctness in speaking of Mr B., or any other person, other qualifications are requisite besides friendly disposition and convivial intimacy.

"But this was not wholly without foundation, Mr B. having frequent occasion to speak of what he had suffered, nor even to this day has altogether ceased to suffer, from the stories about ghosts and other imaginary and horrific beings, told by servants to children. But the purpose for which he was led to speak of them was, that it afforded an illustration of the difference between the judgment and the imagination."

BENTHAM TO W. TAIT.

"*5th March*, 1831.

"Yesterday, (the 4th inst.,) Dr Bowring put into my hands a letter under your signature, in which letter I read the following passage:—'If Bentham approves of such unions, I shall be gratified by a few lines from him to communicate to the Union. Has he written anything recommending unions of the people? His writings are far too little known.'

"It is with great pleasure that I make communication of my compliance with the wish thus expressed: it produces in me, as you see, the effect of a law.

"In principle I am, and, as long as I can recollect, have at all times been, a decided advocate of the most unrestrained peaceable intercourse between man and man for political purposes; consequently for that union, of which I have heard such warm approbation, from friends in whose wisdom and benevolence I am in the habit of placing the firmest reliance.

"But as to details, I have not received any information. You would therefore oblige me much by furnishing me with any such information as is in print; and, in the meantime, letting me know by post at what time, and by what conveyance, I may expect to receive it; and through what channel I may convey to you any such literary matter, as is too bulky to be transmitted by that conveyance.

"This same principle—namely, of unrestrained political intercourse, so it be peaceable—including even union, will be found pervading, and upon occasion showing itself in freedom, in every plan I ever published; but in a more particular manner in my work entitled *Bentham's Radical Reform Bill*, in which are contained my reasons for wishing to see given to the suffrage of the electors of the members of the British and Irish House of Commons, the attributes of 'Secrecy, Universality, Equality, and Annuality;' of the first of which, namely, *Secrecy*, the process called the *Ballot*, is the appropriate instrument.

"Towards this state of perfection, the nearer that any actually proposed plan appears to me to approach, the nearer it accordingly approaches to the consummation of my wishes.

"As to the plan at present upon the carpet, so considerable is the approval it appears to me to merit, that it is not without high delight that I contemplate it.

"Always understood that it will be followed by the Ballot, which I look upon as a consequence sufficiently assured, to keep alive the most sanguine hope; but not in such sort assured as to warrant any relaxation of the endeavours which are employed for the attainment of it. For without the secrecy in question, I look upon all these other securities as little worth.

"As to my works, enclosed is the latest list of them that has been printed.

"Flattering myself with the having fulfilled your wishes, as expressed in your letter. I am, Sir, with sincere respect, yours," &c.

When the Whig Government was projecting a prosecution of Cobbett, Bentham wrote the following letter to an influential member of that Government:—

"22*d June*, 1831.

"Your kindness will excuse this intrusion. The motives will speak for themselves; and if it does no good, it will do no harm.

"For something or other that has been lately published by Cobbett, Government, (I understand,) after having commenced a prosecution against him, and let it sleep for some time, perseveres in bringing it to a conclusion. Several men of whose public affections I am sure, and of whose judgment I think well, agree with me in the apprehension, lest by such a proceeding the administration should be lowered in the estimation of the people. In my opinion, this would be a probable result of any prosecution for anything that goes under the name of a political libel: for, of bad advice in print, if it be in general terms, the bad effect may be more effectually counteracted by good counter advice, backed by reasons also in print; and bad advice, recommending the inflicting injury, in such and such a shape, on an individual, would, in case of the commission of the injury, render the adviser an accomplice, and as such punishable.

"As to Cobbett, a more odious compound of selfishness, malignity, insincerity, and mendacity, never presented itself to my memory or my imagination: and I know not *that* man for whose sufferings I should have less sympathy than for this man's; nor do I know any man in whose estimation the intellectual part of his fame holds so low a place as in mine. Moreover, a friend writes to me—'Cobbett has been abusing you very lately.' Be it so: his abuse of me is no more a matter of interest to me, than would be a dog's barking at me. Never, I believe, did he make mention of me for any other purpose, than that of lowering me in the estimation of the public. For a great many years past, never to my recollection have I *read* ten lines together of anything he has written, or *heard*, except by accident, a few lines more.

"Were I, for example, to succeed in this my application, in such sort, that for this cause alone the prosecution were dropped, I would not wish that he should know as much: he would (I should expect) labour but so much more to injure me. Such is my opinion of his gratitude.

"A small part of all this might probably have sufficed, as well as the whole, to convince you, that this address has for its cause regard for the public, and not for the individual: and with this confession, I conclude myself, yours most sincerely."

Bentham was used to keep a memorandum book, in which, under the name of *Dicenda*, he entered all the anticipated topics of conversation with his visiters. One specimen will suffice:—

"1831—*June* 21—Dicenda to Bowring.

"1. In *Examiner*—head Detrosier—Think of Deontology.

"2. In *Examiner*—Imprisoned Turk—expense of procedure in lieu of redress.

"3. Sermon proscribing all regard to self—Think of Deontology.

"4. Show him Fearon's letter.

"5. Would Louis Buonaparte be a fit king for Belgium?

"6. Look at Spinning operations; Bill for New Lanark.
"7. O'Connell, what to be done in regard to him?
"8. J. Be. to draw up a plan for Church Reform?
"9. Addison—Minister's letter. O.P.Q. in *Morning Chronicle* of 22d June.
"10. How to coöperate with Hume.
"11. Look at Will.
"12. Merle's quotations—*Spectator* on Death punishment.
"13. Silence of *Herald*, and Friend Allen on Death pamphlet."

In July 1831, an action for libel in the *Manchester Times*, was tried, in which Mr Archibald Prentice was defendant. He consulted Bentham as to the course he should take; who recommended him to require that the words of the indictment should be proved. In consequence of his advice, Mr Prentice took the high ground of insisting that evidence should be given to show the *falsehood* of the libel, as its falsehood was made the groundwork of the accusation. In spite of the charge of the Judge, he carried his point. Ten of the jurors were brought to concur in his views; and the Jury (not being able to agree) were called into Court and discharged. Previous to the trial, Bentham wrote a letter to Mr Prentice, in which, after commenting on the indictment, he says:—

BENTHAM TO ARCHIBALD PRENTICE.

"Besides giving acquittal to an innocent and calumniated man, though it is not in their power to save you altogether from punishment under the name of costs, it is in the power of the jury, on this occasion, to give a great lesson to all Englishmen, and, through Englishmen, to all mankind. Yes, it is in their power to drive the first pile for the erection of the fabric—the august fabric—of Law Reform. After finding you Not Guilty, let them make it known by the mouth of their foreman, that though it is on the account of the merits that they thus acquit you, yet, had they ever thought you guilty of an offence, and that a serious one, they could not have found you guilty of the facts charged in and by a written instrument of accusation thus crammed with known and notorious untruths; and that wheresoever an instrument of accusation, thus filled with these and other lies, is stated as the ground of accusation, no verdict will any one of them ever concur in, but that which has the words Not Guilty for the expression of it.

"Let them make this declaration, or anything to this effect, and they will give a lesson to the 'good men and true,' as jurymen are styled, of the whole community, and the lesson will spread like wildfire. The lawyers, seeing by lies like these and other kinds, that their purposes, instead of being fulfilled as they have been hitherto, will be frustrated, will, with whatsoever reluctance, cease to utter them, and confine their steps to the paths of simple truth, or, at any rate, what has the appearance of it."

On receiving the announcement of the result of the trial, Bentham wrote to Mr Prentice:—

"*Queen's Square Place, Westminster,*
"*July* 21*st*, 1831.

"DEAR SIR,—Yes: I do felicitate you, I felicitate the honest and intelligent jurymen, I felicitate the country in general, I felicitate myself, on this your virtual acquittal. I say the country in general: for, further, much further than to the deliverance of one innocent man from the persecution under which he was suffering, do I look for the benefit capable of resulting from this event. It not only always has been, but will now be very extensively seen to be, in the power—not merely of any jury, but of any one man in any jury, to effect no inconsiderable progress in the career of Law Reform. For producing an effect so eminently desirable, a very few juries, and thence a very few individuals, one in each jury, will suffice. Choosing for the experiment those cases in which the acquittal, though of a person by whom the offence has really been committed, will be productive of least evil to the public, (and many are the cases in which

it would not be productive of any evil at all,) making this choice, and declaring that the acquittal had no other cause than their determination not to join with the judges and their partners in iniquity, in the contamination of the public morals, by the utterance of such a tissue of solemn and pernicious falsehoods, it will be in the power of this small number of individuals to compel those on whom it depends, to clear all instruments of accusation from the greater part of that mass of pickpocket lies and absurdities with which they have hitherto been loaded. This may a small number of the lovers of justice do; and thus doing, they will thus pave the way for the establishment of that all-comprehensive plan of Law Reform, to the organization of which, nearer three-quarters than half a century of my life has been devoted. And here, Sir, you have before you, *my* ground for self-felicitation.

"The course which I am thus using my endeavours to recommend to jurymen, is no other than that which I myself would take, were I in their place. In former days, it happened to me to be summoned to serve upon juries of both kinds—grand and special. Having received from nature the experienced faculty of remaining without food for several days, without considerable inconvenience, it would have been in my power in the situation of juryman to command the verdict; and if so disposed, in the situation of member of a petty jury, special or common, to give or sell impunity for any crime at pleasure, not to speak of the giving to one man the property, to any amount, of any other. With what feelings and what views I figured to myself this power in some hands, I leave you to imagine. On the particular occasions then in question, I saw no prospect of rendering to my country in a jury-box, service to so great an amount, as it seemed to me I could render, and was actually rendering in my closet, and thence it was that the invitation never experienced my acceptance.

"'Of a bad bargain make the best,' says one of our old *saws*, nor that the least instructive one. Under the rotten and antipopular constitution, for the change of which into a sound and popular one all eyes are looking with such intense anxiety, the main use of juries as *at present* constituted, is, in my view of the matter, the *veto* which the institution gives to the people, upon laws; upon bad laws in general, and in particular, upon all those in which the oligarchy, by whom we are plundered and oppressed, have a special sinister interest.

"On a cursory glance, it does not seem to me that you had reason to complain either of the learned gentleman who led as counsel against you, or of the other learned gentleman who, on this occasion, officiated as judge. Thus the law *is*, says the judge; and in saying it, says what is but too true. Thus the law is—that is the spurious, the *judge-made* law, substituted to legislature-made law and to parliament-made law; and in this consists the grievance.

"As to the learned counsel—Mischief is capable of being done, says he, by taunting men with offences which they have really committed. In this (though it would not come up to his purpose, by warranting the jury in telling the lies in question) there is unquestionable truth; and it presents a real demand for regulation. Such regulation my Penal Code would accordingly give; but of judge-made law (if to the tissue of irregularities which have no words belonging to them, the name of *law* must be misapplied) one of the evil properties is, that by it no *regulation* of anything can be made.

"It is with no small satisfaction and admiration that I have observed the ability with which you turned to account the materials with which I had the pleasure of furnishing you, and the important additions which you made to them.—Dear Sir, yours sincerely.

"P. S.—My advice to jurymen is plain and unmisunderstandable, and nothing can be easier than to follow it. Examine the indictment, and if in any part there be any assertion that is either notoriously false or not proved to be true, do not join in declaring it to be true, but say, Not Guilty."

JOSÉ DEL VALLE TO BENTHAM.

"*Guatemala, August* 3, 1831.

(Translation—Extract.)

"MY EVER DEAR FATHER,—How I envy my cousin,*—with how much delight would I change my fate with his, that I might dwell in the abode of the best legislator of the world!

"I shall take care to give circulation to your Constitutional Code. The light from Westminster shall illumine these lands.

"You desire, as I do, universal instruction: and I labour to advance it. There are authorities to whom it is necessary perpetually to refer, in every branch of science—and you are one of them: in every soil I trace your footsteps."

* Don Prospero Herrera, the Minister from Guatemala to France, who was for some time a visiter to Bentham.

CHAPTER XXVI.

1831. ÆT. 83.

Declining Health.—Memoranda and Conversations.—Burdett.—Interview with Talleyrand.—Bentham's Death.—His Character, the Structure of his Mind, and his domestic, social, and literary Habits.—Dr Southwood Smith's Estimate of his Philosophy and Personal Character.

IN the summer of 1831, many symptoms exhibited themselves of a gradual breaking up of Bentham's constitution. His reasoning powers had not lost their acuteness—his affections were as strong as ever; but his memory grew confused at times, and his spirits sometimes flagged. On one occasion, on the 18th May, while I was sitting opposite to him, he became suddenly speechless; and, taking a piece of paper, wrote on it, in a scarcely legible hand, that he was not able to speak. But he revived again; and in September wrote the commencement of a "Hudibrastic attack on Chancellor Brougham's Defence of many-seated Judicatories."

"While lawyer craft sits still on high,
And men make law they can't tell why,
'Give me,' quoth Brougham, 'the puisne judges,
For much I need the pliant drudges.
Reasons, as prunes, may plenty be—
No reasons shall you have from me.'"

On the 24th October he wrote, in a hand that appeared more than ordinarily firm and intelligible, the following passage, which he sent to Lady Hannah Elice, as his autograph:—

"The way to be comfortable is to make others comfortable.

"The way to make others comfortable is to appear to love them.

"The way to appear to love them—is to love them in reality.

"*Probatur ab experientiâ*, per Jeremy Bentham, Queen's Square Place, Westminster. Born, 15th February, anno 1748—Written (this copy) 24th October, 1831."

FROM BENTHAM'S MEMORANDUM-BOOK, 1831.

"The last of the royal race of the Stuarts—Lady Dundonald, who died about 1816, and was about a century old, did *four* services to the community; for any one of which she well merited the praise of being, in an eminent degree, the benefactress of her country:—

"She brought over the art of curing herrings from Holland.

"She introduced a superior breed of sheep.

"She was the great promoter of improvements in the silk manufactory of Paisley.

"She planted the first Hydrangea in Great Britain."

"A child in arms—an Ourang Outang. Put a crown upon its head—put a

sceptre in its paw. Blackstone's god it would be—all his attributes it would have: the good people of England would bow down and worship it, and tax themselves a million a-year to feed it."

"Arithmetical, algebraical, and musical notation are a portion of the quasi-universal written language; while the correspondent spoken exists in all its varieties. An analogous case is that of the Chinese character, common to China, Japan, Cochin-China," &c.

"Unapt words in use:—

"1. *Integrity*—vice *integrality*.

"2. *Calculate*—ambiguous, as between *likely* to produce the effect and *designed* to do so.

"3. *Either*—vice *each*.

"4. *Based*—vice *grounded*: grounded having conjugates, *based* not.

"5. *Touching* (from the French *touchant*)—vice *affecting*."

"A member of the aristocracy looks upon himself as the richer by every pleasure he deprives the democracy of."

"Vague generality is the lurking-place of error and fallacy."

"*Nomography*.—Proposed addition to the number of auxiliary verbs.

"By this denomination may be designated certain verbs, which, by being prefixed to the nouns-substantive which are employed in the names of the corresponding operations, perform, and, as will be seen, with considerable advantage, the service, or say functions of, and become synonymous to, the several verbs, which, by a single word, are each of them expressive of the same idea.

"These are:—

"1. To *make*, with its synonymes, perform, &c.

"2. To *give*, with its synonymes, transmit, &c.

"3. To *receive*, with its synonymes."

I have already mentioned Bentham's practice of employing an auxiliary verb with a noun, where a verb active is ordinarily used. He said, he found such collocations of words most convenient for analysis or synthesis. He could thus take his sentences in pieces, and put them together.

"You don't know the idea again, unless you see it clothed in the same words. The *verb-substantive*, as it is commonly called, call it rather the universally applicable verb, for it serves to predicate existence of whatever subject-matter it is applied to.

"With the help of the appropriate substantive, it might supersede the use of all other verbs; and the simplicity of inflection, and facility of being learnt, might then be maximized—say *Eugnosia*."

"1831—February 16.—The day after arrival at the age of 83.

"J. B.'s frame of mind.

"J. B. the most ambitious of the ambitious. His empire—the empire he aspires to—extending to, and comprehending, the whole human race, in all places,—in all habitable places of the earth, at all future time.

"J. B. the most philanthropic of the philanthropic: philanthropy the end and instrument of his ambition.

"Limits it has no other than those of the earth.

"Thus Philip of Macedon:

Και γαρ γη και ποντος ὑπο σκηπτροισι Φιλιππου
Δεδμανται: λειπει ἡ προς Ολυμπον ὁδος.

"*Logic*.—Abstraction is one thing,—association another; relation comprehends both: the one the converse of the other; *relation* is the most abstract of all abstractions.

"Each thing is,—the whole of it, what it is,—but we may consider the whole of it together, or any one or more parts of it at a time, as we please—thus we make,—thus we have abstracted,—abstract ideas.

"Abstraction is—1. Posological: 2. Logical. Logical is the most abstract.

"In posological, abstraction can begin with real entities—Abstraction, Association, Induction.

"Induction, posological, logical. To association we are indebted for the use of *writing*,—for written,—for visible *signs*.

"*Data* are the fruit of induction. When we come to *data*, we come to *real use*."

"Egypt probably the country in

which morphoscopic posology took its rise. Mensuration of land produced the demand for it, and the application of it to practice by the medium of trigonometry.

"Exemplified by Euclid's *data* is the practical use: by their relation to accessible and measured boundaries, the dimensions, either of inaccessible, or not-without-difficulty-accessible, were thus ascertained, and by means of them the quantity of space contained within them; and thus the quantity and situation of portions of lands in the occupation or proprietorship of different individuals ascertained, when more or less of each was covered by the Nile.

"Proceeding by analysis, you take in hand a relatively large thing of any kind: you take it as you find it, and break it into parts.

"Proceeding in the way of synthesis, you take relatively small things of any kind, in any number: you put them together, and so make them into a whole.

"Proceeding—operating in the way of analysis, you do as you do by a cucumber, when you cut it into slips to be eaten, when it has been peppered, salted, and vinegared.

"Proceeding in the way of synthesis, you do by them as you do by a number of gooseberries, when you make them into a pie; or of grains of millet, when you make them into a pudding."

"Wherever there is a word, there is a thing: so says the common notion—the result of the association of ideas.

"Wherever there is a word, there is a thing: hence the almost universal practice of confounding *fictitious* entities with *real* ones—corresponding names of fictitious entities with *real* ones. Hence, common law, mind, soul, virtue, vice."

"Identity of nomenclature is certificate of identity of nature: diversity of diversity:—how absurd, how inconsistent to make the certificate a false one!"

"Not but that where ambiguity is out of the question, a new appellation having a new idea tacked to it, may be a beauty—and commonly is so;—the new *idea* is *autant de gagné*."

"The connexion between genus and species, in links or grades, in indefinite number, one under another—call it *logical* concatenation."

"Civil Code.—Power of aggregation: power of disaggregation. These are, in an indirect form, branches of the power of legislation. When the exercise given to legislative power does not apply directly to individuals, individually considered, exercise given to the power of aggregation is necessary to bring the mandate and the obligation home to individuals."

"Under matchless constitution, the *end* aimed at is maximization of depredation and oppression:—oppression for the pleasure of it, and depredation for the profit of it.

"For the compassing these ends, the means which are employed, and which, so long as matchless constitution continues, matchless constitution will continue to employ, are these: Denial of justice to all but the ruling and influential few, and by the non-lawyers among these few, consent to purchase what is called justice of the lawyer tribe, that the profit upon the sale may give them a community of interest in the maintenance of the system of depredation and oppression."

"A *fixed* penalty is a *license* in *disguise*."

"A government in which the few exercise dominion over the many, does it not stand condemned by that very circumstance?"

"When interest closes the eyes, the whole force of reason cannot open them."

"England, is it not a nation in which laws are established without any ratiocinative articles: without reason assigned; without reason assignable; without reference to reason; without any regard to reason; in the very teeth of reason? Is not this a headless nation?"

"A many-headed Incubus is the aristocracy of England."

"Article in *Quarterly Review*, for February 1830, on Law Reform. The whole of this article is in the coldest and most apathetic style, as if the subject bore no relation to human feelings: the worst and the best actions spoken of with equal indifference."

"Make public functionaries uneasy. High-pressure engine, nothing is to be done without it. Nothing to be done by the people for their own security, but by applying to their rulers the force of the engine."

The very last memorandum which I find made by Bentham is this:—

"I have two *minds*: one of which is perpetually occupied in looking at, and examining the other,—thus studying human nature, partly with a view to my own happiness,—partly with a view to that of the human species."

The following reminiscences occur in a postscript of a business letter by Bentham to his bankers, of date 12th January, 1832:—

"Within a trifle, more or less, forty years have elapsed since I had the pleasure of being one at a convivial party with your good family on the Martin side, I believe the whole of it, in company with Dr Price, Kippis, and, I think, Priestley, at your father's, then residing in Downing Street. I condole with you on your announced loss of that gentleman, who was, I believe, the eldest member of it. One of the members, Stone, was a school-fellow and familiar friend of mine at Westminster. I remember passing some time in his company when he was with his mother at Tunbridge Wells, about seventy-three years ago. Being some years older than myself, he can hardly be at this side of the grave at this time. Afterwards, I remember him coming in one day after dinner at our school-fellow's, Sir W. Fitzherbert, elder brother of Lord St Helens, on his, Mr Stone's, return from Paris, where he had been secretary to the Duke of Dorset, then our ambassador at that court. What is curious, we did not at that time recognise one another. He sat down to the piano-table, and played *Malbrook* s'en va a la guerre*, the beautiful little song tune which was just then come out at Paris.

"In the topsy-turvy state of the second page of this letter, you will see an effect of the weakness of my eyes; but though several of my senses and faculties are nearly gone, and several of them altogether so, my friends still keep amusing themselves with the assurance they are pleased to flatter me with, that the old philosopher will continue to cumber the ground as long as Newton did with his ninety years, or even, say some of them, Fontenelle with his 100 years."

SIR FRANCIS BURDETT TO BENTHAM.

"*4th Feb.* 1832.

"Hassan, the camel-driver, was not more delighted when, travelling o'er the desert, he received on his parched lips a drop of water from heaven, than I am at receiving your kind, and, allow me to call it, affectionate invitation; for I value your good opinion and esteem beyond that of the million far. I know nothing of the honours you suppose are awaiting me, and I assure you, in perfect sincerity of heart, I care nothing; but of this and other more interesting matters when we meet, which, God willing, shall be Sunday, for I put aside every consideration to have that pleasure.

"I hardly know the thing you could, at least, *would* ask of me, that I should not feel the greatest gratification in complying with. Of course there is no need to say anything about Mr Colls. Believe me, Dear Bentham, most sincerely yours," &c.

I had the happiness of bringing Talleyrand and Bentham together a short time before Bentham's death. They had not met, I think, for forty years: years passed by the one in all the turbulence of political excitement; by the other, in the calm of an almost inaccessible solitude. But Bentham's name and Bentham's genius happened to be the

* See this incident in Chapter viii.

subject of conversation at Talleyrand's table: and I was struck with the warm, the unwonted admiration with which the diplomatist spoke of the philosopher. Was he accessible? Could entrance be obtained to his presence? I engaged to be the negotiator: and Bentham, after listening to me, wrote to Talleyrand what follows:—

BENTHAM TO TALLEYRAND.

(Translation.)

"PRINCE!—Do you want an appetite? The means of finding one for Friday next, is to come to this retreat, and take a Hermit's dinner on Thursday. I say on Thursday; for thus, Bowring, whose house looks upon my garden, may enjoy your society for a few moments: that is to say, after dinner; for during dinner we must be *tête-à-tête*, which will be the only way of making ourselves known to each other: I give my mornings to nobody. I have so much to do, and so short a time to live, that I cannot abridge my working hours. As to visits, I have made none for many a year, neither to dine, nor for any other purpose; though dine we must, under pain of death. If Thursday suit you not, fix any other more agreeable day: Bowring departs on Saturday.

"As to wine I have nothing better than some tolerable St George: so, if this drug is a point with you, (I only use it for medicine, as I belong to the sect of the Rechabites,) you will do well to follow what a wicked wit called the example of Pitt the Second, and come to dine with your friend—a bottle of Port in each pocket.—Wholly yours."

Answer:—

(Translation.)

"8*th February*.

"To dine with Bentham; to dine alone with Bentham;—that is a pleasure which tempts me to break an engagement I have been under for several days. To-morrow (Thursday) I shall come to him: he will tell me the hour. I shall be punctual."

"Talleyrand," said Bentham, "was introduced to me by Dumont in 1792, at Queen's Square Place, in the room now my library. He asked me to superintend the building of a Panopticon in Paris; for which, he said, the municipality, headed by the Duke de la Rochefoucauld, were willing to furnish funds: and the Duke's house was offered to me for a residence of six months. When the Duke was murdered, the plan fell through."

Talleyrand had the highest admiration of Bentham. He once said to me, that he was preëminently a *genius*—more entitled to the name than any man he had ever known. I once remarked to him, that of all modern writers, Bentham was the one from whom most had been stolen—and stolen without acknowledgment. "True," he said, "*et pillé de tout le monde, il est toujours riche.*" And robbed by everybody, he is always rich. A higher compliment could scarcely be paid from one illustrious man to another; and from Talleyrand, whose mind rather led him to censure than to applaud, the praise has a double value.

The writer who adopted the name of Junius Redivivus having written to Bentham, giving to him the credit of having first taught that author "to think and look beneath the surface of human transactions," Bentham requested him to throw off the mask, and to visit him. The anonymous writer thought, however, that he should best forward his objects by keeping himself sheltered from personal observation.

For some months before his death, Bentham had been anticipating the event. The loss of many of his faculties, particularly of his memory, was very obvious to him, and he frequently expressed his conviction, that mind and body were giving way together. I was absent from England a month or two before he died. So anxious was he to save me from the distress which the knowledge of his situation would have caused, that he directed certain letters of his to be sent to me, only in case of his recovery

or death, lest their contents, by evidencing the state of his health, might be the cause of suffering to me. One passage is as follows:—

J. Be. to J. Bo.

"*Q. S. P.*, 10*th April*, 1832.
"6 *o'Clock*.

"Sent off this moment to the Foreign-office, by the hands of Mathew, a letter of this same date. Should the matter, of which this packet is the receptacle, ever reach your hands, it will not do so till after my recovery, in which case the disorder so manifest in it will not occasion any affliction to you; or after my death, in which case it will not add to that affliction, though, as you see already, I cannot write a line in addition to those written already without addition to the confusion, the existence of which is so fully proved by the lines which it has for its predecessors. But abundant is your charity. Multitudinous, indeed, must be your sins, if so many proofs I have received of it have not covered them.

"What I perceive but too plainly is, that you are in no want of adversaries, not to say enemies, who will, of course, be on the alert to take hold of everything that can afford them a prospect of their being able to turn to your disadvantage, to which purpose will be endeavoured to be employed every communication by word of mouth. This considered, let the motto of the worshipful company of Scriveners in the city of London—the company of which my father was clerk—be on each occasion present to your mind: you will find in it, if duly observed, a rather better remedy against sufferance from calumny, than a caterpillar enclosed in a bag tied round the neck against sufferance from an ague."

Bentham died on the 6th of June, 1832. His head reposed on my bosom. It was an imperceptible dying. He became gradually colder, and his muscular powers were deprived of action. After he had ceased to speak, he smiled, and grasped my hand. He looked at me affectionately, and closed his eyes. There was no struggle,—no suffering,—life faded into death—as the twilight blends the day with darkness.

With a view to the advancement of anatomical science, he directed that his body should be dissected; and this direction was carried into effect.

It is not my purpose to trace, even in outline, the character of Jeremy Bentham. It is best portrayed in those self-drawn sketches, and in that correspondence which are here collected. Never was it my lot to see mingled in the same human being so many qualities which exacted admiration and inspired affection: never have I witnessed so much wisdom and so much wit,—so much of the sagacity of a sage, and of the simplicity of an infant, beautifully blended. Benevolence, beneficence, on the largest scale and for the noblest ends, were the passion—if passion may be called the temperament of so calm and philosophic a spirit—were the habit of his existence. The strength of his intellect could be equalled only by the fervour of his affections,—his mental greatness by his gentleness and generosity.

He lived, not to teach alone, but to practice his own magnificent morality,—to show how the felicity of the individual might draw its habitual element from the felicity of the multitude,—how one man might, in the happiness of all men, seek and find his own highest happiness.

In all Bentham said, or did, or wrote, he was under the influence of the two great principles which form the groundwork of his philosophy: to promote felicity, and to diminish suffering. "The greatest-happiness-creating principle," and subordinate to it "the disappointment-preventing principle," as he denominated them, were the tests he had accustomed himself to apply to all pretensions, properties, and persons. He expressed himself sometimes with vehemence, when he thought the case required a bold exposure. Where great interests were associated with great abuses, and depredation or oppression

exercised towards the many, his indignation often broke out in bitter animadversion. Yet his nature was pre-eminently timid and childlike. His susceptibilities were most acute; he could not tolerate the infliction of needless suffering, even upon the meanest of living things,—though his philosophy was willing to consent to its infliction, wherever a balance of good was to grow out of it.

Of human nature, Bentham had an exalted opinion. He once told me he had known many men who held honours and riches cheap, in comparison with the delight of doing useful service to their race.

By nothing was Bentham more characterized, than by these microscopic powers of intellect, which enabled him to pursue the investigation of a subject into its most minute details. Seizing the general principle with masterly grasp, he carried out its consequences into all its ramifications. Nothing seems to escape his sagacity, which, as the field of inquiry opens upon him, becomes in a high degree imaginative and inventive. He has been sometimes reproached with not applying equal attention to every branch of the same subject; but had he explored all the regions of thought and action in the same complete and exhaustive spirit which he applied to portions of the field, he would have left nothing to future intellectual labourers. What he did was wonderful in its extent and variety. He laid down the great texts of morals and legislation; and now and then worked some of them out in all their consequences, as in the instance of the Rationale of Judicial Evidence. His mind was like a mine rich in various ores, of which he taught the world only a portion of the uses; but the mine is there, and it will be worked out by others. Enough has been done to show the richness of the materials and the value of the metal. It will give forth treasures for ages.

Perhaps the "Rationale of Evidence," more than any other of Bentham's writings, represents the all-embracing character of his mind, as applying general principles to an immense variety of minor topics. It presents all the merits which belong to a masterly conception of the whole subject, accompanied with the utmost accuracy in, and most curious discrimination of the smallest matters of detail: on the one hand, the minutest ramification is traceable up to the great principle from which it emanates,—while, on the other, that principle is followed down with admirable acuteness through all its consequences. The varied questions as to the value of testimony are solved by a profound knowledge of the physiology of man. All the theory of evidence is built upon the solid basis of a sound philosophy. The practices of our courts,—the *dicta* of our judges,—the fallacies of our lawyers,—are sifted and disposed of with the most felicitous acumen. His object throughout is to distinguish between the ends of law, and the ends of justice,—to defeat the purposes of chicanery, and to forward the interests of truth.

It has been said, that Bentham was little influenced by the writings and opinions of others. This is, to a great extent, true. In early life, he had been a diligent reader of the works of other men. He was a Greek and Latin scholar; but he valued little the philosophy of the ancients. He thought their notions of government, and of the foundations of morals, vague, shifting, inconsistent, untenable. He saw, indeed, in some of them, a faint shadowing forth of the doctrine of utility, and in so far, he thought, they had penetrated into the regions of truth; but in the reverence for authority,—in what he called the *ipse-dixitism* of the schools,—he found nothing but barriers to inquiry, and pretences to infallibility. And, perhaps, it is not to be regretted that Bentham, instead of occupying his attention with the views of other writers, was habitually engaged in pouring forth, for the use of the present and future generations, the contributions of his own. Critics enough there are in the world,—but there are few inventive, few original minds;—it may be doubted if one has appeared in our day and generation so inventive and original as Bentham's.

But turning from Bentham's intellec-

tual to his moral nature,—few men have been so amiable, or so happy. In boyhood,—in youth,—in maturer life, he had much to annoy and to discourage him; but as age advanced, everything grew bright within and around him. Associates whom he loved were never wanting to his felicity. Topics of hope,—the progress of knowledge,—the victories of reform,—the evident spread of his principles,—filled his mind with daily sources of delight. His society was eagerly sought,—his opinions consulted by the most eminent men of his day,—and he was enabled to choose for his companions those with whom he most sympathized,—with whom, and for whom he loved to labour. The daily and weekly newspapers were to him a perennial spring of enjoyment,—to the last he took the deepest interest in public matters, and in the conduct of public men. He paid little regard to the attacks of which he was sometimes the object, and, in fact, was scarcely ever known to read a criticism upon his own writings,—"Why should I be put out of my way?—I have much to do,—I have little time to do it in"—was the excuse he made to himself and others, for not being diverted from his pursuits by any attacks upon him.

Bentham attached the utmost value to time,—he husbanded all his moments with anxious care. Nothing disturbed him so much as to be called away from his beloved pursuits. In fact, he could scarcely ever be induced to receive any visiter except at his dinner-table. He never admitted any one but for some special purpose. He felt no interest in the vague generalities of conversation,—and never would gratify the curiosity of those who from curiosity alone desired to be admitted to his presence.

The striking resemblance between the persons of Franklin and Bentham has been often noticed. Of the two, perhaps, the expression of Bentham's countenance was the more benign. Each remarkable for profound sagacity, Bentham was scarcely less so for a perpetual playfulness of manner and of expression. Few men were so sportive,—so amusing as Bentham,—none ever tempered more delightfully his wisdom with his wit. Of the wisdom that is called worldly, Franklin had, no doubt, a larger share,—for he had been a great actor as well as a great writer,—and had been engaged in the most interesting parts of the most remarkable events of his day. He was made of sterner stuff than Bentham. He lived in the eye of the world, and had to accommodate his outer man to the world's usages,—but Bentham avoided the rush and the shock of men. "The tide of tendency" affected not the quiet repose of his mind,—except as it gave new matter for philosophical reflection, and afforded subjects to which he could apply his beneficent councils. The direct links which associated him with society were few,—but to these few he showed an affection and an attachment which exhibited him as made up of the tenderest sensibilities and sympathies.

Bentham's industry was remarkable. As soon as he rose, he was occupied in composition, and he wrote, on an average, from ten to fifteen folio pages a-day. He was seldom satisfied with the first expression of his thoughts, and generally developed his views over and over again. He was in the habit of composing on long, ruled paper, having somewhat more than an inch in breadth ruled off, for marginalizing. This plan of condensation enabled him more easily to go over the field, and to pursue what he called his exhaustive investigations. Every page was headed with the date of its composition, which he found a great auxiliary to his thoughts. When occupied by some one subject, if something worth remembering occurred to him on another, he noted it on a slip of paper, which he pinned to a small green curtain, that hung near him, and which was sometimes covered with these *disjecta membra*. He collated and located them from time to time.

The manners of Bentham were polished in the highest degree. He was observant of all the *minutiæ* of courtesy. Every little object of desire that he could procure for his visiters he invariably procured,—the little enjoyments which he had discovered were acceptable to particular guests, were unostentatiously

placed before them. His table was excellently served. He himself greatly delighted in its moderate luxuries. He began with the dessert, as he said he wholly lost the flavour of the fruit if he partook of it after the stronger viands of the first course. In the latter part of his life the sense of taste was nearly destroyed. He drank half a glass of Madeira wine daily. I believe he passed through life without a single act of intemperance.

From the period of his father's death Bentham possessed a competence, and as far as money was needful to his enjoyments, he had no wishes ungratified. And he distributed his wealth liberally for every purpose which seemed to him likely to increase the happiness of his race. On some occasions he was even betrayed into an imprudent liberality: for he had to sustain some severe losses, the consequence of the sanguine miscalculations of his friends, which were responded to by his own eager and excitable nature. Happily none of these losses curtailed his pleasures; and he applied to his own case his own admirable maxims,—to look always on the sunny side of things,—to forget as speedily as possible all evils that cannot be remedied,—to hunt for cheerful thoughts,—to be busied with no portion of the sorrows of the past, but that out of which some instruction or some felicity is to be derived.*

Bentham had the benefit of many distinguished followers. He was the founder of a school whose principles at all events are intelligible,—though in the elaboration of these consequences, his disciples have not always followed him. It was made a reproach to him that he was sometimes led astray by a point of detail, and would follow out a fallacy to its destruction through numberless windings, though the influence of that fallacy might be unimportant. But making war, as he did, upon sophisms and sinister interests, we cannot be surprised at his desire effectually to clear the field wherever he found it encumbered, and the examples given of what he called "the exhaustive" faculty was often highly interesting and instructive.

Bentham often confessed that nothing had been more mischievous to him than that bashfulness which clung to him like a cold garment through life. There was never a man so desirous of shunning others, unless some strong sense of duty, or prospect of usefulness, subdued his natural tendency to seclusion. On his early acquaintance with Lord Shelburne, a plan of connecting him with the East India Company, under the patronage of Captain Smith then an E. I. Director, failed. Bentham offended Lord Sydney, by not returning a visit, who had sent his son to solicit him to do so. Once, when Madam de Staël called on him, expressing an earnest desire for an audience, he sent to tell her, that he certainly had nothing to say to her, and he could not see the necessity of an interview, for anything she had to say to him. On an occasion when Mr Edgeworth, in his somewhat pompous manner, called and delivered the following message to the servant, in order to be communicated to Bentham: "Tell Mr Bentham, that Mr Richard Lovell Edgeworth desires to see him,"—he answered: "Tell Mr Richard Lovell Edgeworth, that Mr Bentham does not desire to see *him*."

The leading principles of his philosophy Bentham applied to all subjects. If a book had to be considered, his inquiry was, "Is it correct? is it complete?"—correctness and completeness being the two great elements out of which *truth* must be constructed. His study of the laws and rules of evidence for judicial purposes, led him to apply those laws to all other testimony.

Bentham was a warm admirer of music—especially of solemn music; and of Handel's solemn music above all others. But modern music he valued little; and least of all, light and frivolous airs.

It is not easy to estimate the extent of circulation which the writings of

* The Spaniards have an admirable apopthegm, which Bentham was wont to admire: "¿Si hay remedio porque te apuras?—¿si no hay remedio porque te apuras?" If there be a remedy, why dost thou worry thyself?—if there be no remedy why dost thou worry thyself?

Bentham have obtained through the whole world. Of Dumont's translation, M. Bossange calculated that the sales on the continent of Europe had exceeded 50,000 copies.

Bentham's dress was peculiar out of doors. He ordinarily wore a narrow-rimmed straw-hat; from under which his long white hair fell on his shoulders, or was blown about by the winds. He had a plain brown coat, cut in the quaker style—light-brown cassimere breeches, over whose knees outside he usually exhibited a pair of white worsted stockings—list shoes he almost invariably used; and his hands were generally covered with merino-lined leather gloves. His neck was bare: he never went out without his stick "dapple" for a companion. He walked, or rather trotted, as if he were impatient for exercise; but often stopped suddenly for purposes of conversation. He was remarkable for attention to all that the French mean by their *petite morale:* a model of neatness and propriety himself, any the slightest deviation from good manners excited his attention, and almost always led to some playful criticism, not likely to be forgotten; for in lesser, as in greater things, he had adopted for his maxim—that a moralist, like a surgeon, should never wound but to heal.

Bentham was very fond of animals, particularly "*pussies,*" as he called them, "when they had domestic virtues;" but he had no particular affection for the common race of *cats.* He had one, however, of which he used to boast that he had "made a man of him," and whom he was wont to invite to eat maccaroni at his own table. This puss got knighted, and rejoiced in the name of Sir John Langborn. In his early days he was a frisky, inconsiderate, and, to say the truth, somewhat profligate gentleman; and had, according to the report of his patron, the habit of seducing light and giddy young ladies, of his own race, into the garden of Queen's Square Place: but tired at last, like Solomon, of pleasures and vanities, he became sedate and thoughtful—took to the church, laid down his knightly title, and was installed as the Reverend John Langborn. He gradually obtained a great reputation for sanctity and learning, and a Doctor's degree was conferred upon him. When I knew him, in his declining days, he bore no other name than the Reverend Doctor John Langborn; and he was alike conspicuous for his gravity and philosophy. Great respect was invariably shown his reverence: and it was supposed he was not far off from a mitre, when old age interfered with his hopes and honours. He departed amidst the regrets of his many friends, and was gathered to his fathers, and to eternal rest, in a cemetery in Milton's garden.

"I had a cat," he said, "at Hendon, which used to follow me about even in the street. George Wilson was very fond of animals too. I remember a cat following him as far as Staines. There was a beautiful pig at Hendon, which I used to rub with my stick. He loved to come and lie down to be rubbed, and took to following me like a dog. I had a remarkably intellectual cat, who never failed to attend one of us when we went round the garden. He grew quite a tyrant, insisting on being fed, and on being noticed. He interrupted my labours: once he came with a most hideous yell, insisting on the door being opened. He tormented Jack (Colls) so much, that Jack threw him out of window. He was so clamorous that it could not be borne, and means were found to send him to another world. His moral qualities were most despotic—his intellectual extraordinary: but he was a universal nuisance."

The mice were encouraged by Bentham to play about in his work-shop. I remember, when one got among his papers, that he exclaimed, "Ho! ho! here's a mouse at work; why won't he come into my lap?—but then I should be stroking him when I ought to be writing legislation, and that would not do."

"I have been catching fish," he said one day; "I have caught a carp. I

shall hang him up,—feed him with bread and milk. He shall be my tame puss, and shall play about on the floor. But I have a new tame puss. I will make Roebuck my puss for his article on Canada; and many a mouse shall he catch."

One day while we were at dinner, mice had got, as they frequently did, into the drawers of the dinner-table, and were making no small noise. "O you rascals" exclaimed Bentham: "there's an uproar among you. I'll tell puss of you;" and then added: "I became once very intimate with a colony of mice. They used to run up my legs, and eat crumbs from my lap. I love everything that has four legs: so did George Wilson. We were fond of mice, and fond of cats; but it was difficult to reconcile the two affections.

"From my youth I was fond of cats—as I still am. I was once playing with one in my grandmother's room. I had heard the story of cats having nine lives, and being sure of falling on their legs; and I threw the cat out of the window on the grass-plot. When it fell, it turned towards me, looked in my face and mewed. 'Poor thing!' I said, 'thou art reproaching me with my unkindness.' I have a distinct recollection of all these things.

"Cowper's story of his hares, had the highest interest for me when young; for I always enjoyed the society of tame animals. Wilson had the same taste—so had Romilly, who kept a noble puss before he came into great business. I never failed to pay it my respects. I remember accusing Romilly of violating the commandment in the matter of cats. My fondness for animals exposed me to many jokes. An acquaintance of Wilson's came to dine with me, and I gave him a bed in my chambers. He had seen two beautiful asses. One of them had the name of Miss Jenny. At Ford Abbey, there was a young ass of great symmetry and beauty, to which I was much attached, and which grew much attached to me—each fondling the other."

Bentham dined at seven o'clock, in a room he called his "Shop." It was surrounded by books. In the centre was a platform which occupied most of the room, and around three sides of it, a narrow passage, which he named his "ditch," or "vibrating ditch." There was an organ in the room, which was played while we sat down to dinner. It stood opposite the door, in a place just large enough to hold the instrument and the performer, which had been cut through the platform to the floor, and which was denominated "the well," into which a blind or heedless visiter not unfrequently fell. Upon the platform stood a book-case named "the Caroccio," which he could reach without leaving his chair, and a reading stand with the MSS. on which he was occupied, a plate with writing materials, sticks, pens, and pins, wax, scissors, &c. The table was never removed. Opposite him was an arm-chair for a single visiter, for he did not like to have conversation divided and distracted by the presence of many persons. One, sometimes two secretaries dined with him, who were honoured with the name of "reprobates." Himself he liked to call "the Hermit," and his house "the Hermitage."

A usual phrase on the arrival of a visiter for dinner was, "Let me whisk you round the garden. I always indulge in an ante-prandial circumgyration." The first time I visited him, when he came to a corner of the garden, in which is a fine sycamore tree, and behind it an obscure brick house, he suddenly stopped, and, laying Dapple on my shoulders, shouted out, "On your marrowbones, Sir!" I saw on a slab, to which he pointed, "Sacred to Milton, Prince of Poets." It was Milton's house,—the house he occupied when he was secretary to Cromwell. The garden was an object of special delight to Bentham, who was passionately fond of flowers, and the garden had once, he said, been distinguished for its variety of fruits; but the growing deterioration of the atmosphere had destroyed one sort after another, so that a few currants and gooseberries, with abundance of fine mulberries, were all that time and smoke had left. Anne, the housemaid and waiter, always summoned us to dinner.

His table was always liberally, not to say daintily served; and when he discovered that a particular dish was a favourite, that dish was sure to be found by the guest, and often bore the guest's name. I remember that "fried parsley" was Dr M'Culloch's dish, "scolloped oysters" was mine. He ate abundantly, for dinner was his only substantial meal. "Let me have the ensign of authority," he would say, taking the bell-rope: and at ten o'clock tea was brought in; but he had a tea-pot of his own, which nobody else was allowed to use: the "sacred tea-pot," he styled it, its profaner name was "Dick;" and Dick was always put over the lamp to sing. Many an odd phrase did Dick give birth to: "Has my Dick begun his song?—then take him off his perch." "Take down Dicky: he is in a passion. What a piece of work he is making!" In Dicky the tea was made according to Bentham's peculiar notions of teamaking. The water was put in at once, so that the tea might be of equal strength to the end. To the sacred vessel a history was attached. It had been given by Lind to a Dr Darsent, who had cured his wife of a dangerous disease. When Darsent died at the age of ninety, he bequeathed it to Mrs Lind, then a widow. She gave it to a servant, to whom she paid an annuity; and on her death, Bentham took that servant as his housekeeper; and when she left him in her old age, he allowed her an annuity of £45 a-year. She, however, frequently pleaded her poverty, and the insufficiency of the allowance; and as frequently got some additional money from Bentham. She left, however, a legacy of £200 to her brother; and Bentham induced her to give him, by will, the said teapot. She was an artful, crafty woman, who, having once succeeded, by hysterics, in getting some wish gratified, tried the trick again upon Bentham, when he told her he "understood hysterics, and would have no more of them": and he *had* no more of them. "Much," said Bentham, in mentioning this, "much depends on doing things in a quiet way. Try not to be angry; and if you are, do not let it be seen. People may go into hysterics—as they may shed tears at command. You may be taught to shed tears, as Cicero taught you to stamp with your foot."

At eleven o'clock water was introduced,—his night-cap brought in, which he tied under his chin,—his watch delivered to the "reprobate" who held the office of "putter to bed,"—his eyes were washed,—his habiliments were doffed,—and during all these proceedings, which lasted exactly an hour, he kept up a perpetual and amusing chit-chat; at twelve o'clock his guests were visited with "ignominious expulsion." He then withdrew into his room, where he slept on a hard bed. Across the bed, accessible to him even when lying down, was a shelf, covered with jars, jugs, and other conveniences. The "reprobate" usually read to him till he fell asleep,—but sometimes access was denied, and the reprobate waited in the "shop" till he called out "watch,"—the watch was delivered into the philosopher's hands. He "made every reprobate swear fealty," he said, "to a *trinoda necessitas*,—the asportation of the candle,—the transtration of the window,—idem of the trap-window,"—and when these functions were performed, he gave his benediction, —the door was shut, and he was left to his slumbers.

But his rest was often annoyed by his extreme physical sensibility. If his hand touched his body he awoke in pain. He was much disturbed by dreams,—"Last night," he said on one occasion, "I passed the whole night with Brougham, —and so I move in various companies."

Bentham preserved his eyesight to the end of life, though he was obliged both at morning and night to remove with a wet spunge the mucus, which otherwise, he said, would "cement his eyelids." He was also troubled with a discharge of saliva from the corners of his mouth, and on mentioning this one day, he sang humorously:—

An old, old driveller am I,
Which nobody, nobody can deny.
Nobody can deny that I
Am an old driveller.

In this playful, buoyant spirit he always referred to his infirmities. He was, in-

deed, one of the happiest of men. He had seldom known illness, had scarcely ever felt pain. In the very later part of his life, he was annoyed with a cutaneous eruption; and he told me one day: "I dreamt I was living in the town of Itch, in which existence consisted of itching. It was a pretty and ingenious fancy of Condillac to endow a statue with the different senses — first separately and then collectively: why should he not have added the itching sense?"

I conclude this Memoir, by quoting the eloquent opinion on his personal character in connexion with the principles of his Philosophy, pronounced by his friend, Dr Southwood Smith:—

"The discovery and application of the true physical law at the foundation of all physical phenomena, has produced a total revolution in the philosophy of physics. The discovery and application of the true psychological law, equally at the foundation of all mental phenomena, is destined to produce a like revolution in the philosophy of morals. Before the principle announced by Newton, as affording the true exposition of the constitution and motion of all physical bodies, has already fallen every other theory, how remote soever the antiquity in which it took its origin, how plausible soever the solution it gave of apparent but deceptive phenomena, how great soever the ability with which it had been defended, and the authority by which it had been sanctioned: before the principle announced by Bentham, as affording the only true theory; and directing to the only right and proper object and end of morals, legislation, and government, is destined to fall every INSTITUTION, however ancient, how much soever eulogised, how deeply soever venerated, by whomsoever pronounced to be the perfection of human reason, which is not really conducive to human happiness; every LAW, constitutional, civil, and penal, with whatever danger to partial and sinister interests its abrogation may be pregnant, which is not conducive to security, to liberty, and to justice; every MODE OF PROCEDURE in the administration of the law which does not render justice accessible, speedy, and cheap — which does not minimize delay, vexation, and expense; every RULE OF CONDUCT, whether relating to public or to private life, the observance of which does not tend to educe, from the source of pleasure it is intended to regulate and control, the largest obtainable amount of felicity, and to exclude, in the completest degree, the corresponding pain with which almost every pleasure is but too apt to be linked; every SANCTION, physical, judicial, moral, and religious, which does not secure, at the smallest cost of suffering, the most perfect and uniform conformity of the general will and action to the appointed rule.

"And, in like manner, upon this same principle, will ultimately be established whatever institution, law, procedure, rule, and sanction, human sagacity and experience may prove to be productive of happiness and exclusive of misery, however its adoption may be obstructed for a time by ignorance, by sinister interest, and by prejudice growing out of such interest.

"And had the human mind applied itself with all its faculties, with all the energy which those faculties are capable of putting forth, with sincerity of purpose, and with perseverance, to the adoption of institutions, laws, procedures, rules, and sanctions, having such, and only such ends in view; had it devoted itself to this pursuit, from that point of civilisation in the history of our race, which is compatible with labour of this sort, up to the present hour, what would now have been the condition of human society! What would now have been the amount of obtainable felicity, felicity actually and hourly enjoyed by the millions of human beings that make up that vast aggregate!

"If in every community, in proportion as it advanced in civilisation, every institution, constitutional and social; every law, civil and penal; every mode of procedure, judicial and criminal; every rule of action, public and private; every sanction, physical, penal, moral, and religious, had been framed with the sole purpose of securing 'the greatest happi-

ness of all its members, the greatest happiness of all of them, without exception, in as far as possible, and the greatest happiness of the greatest number of them on every occasion in which the nature of the case renders the provision of an equal quantity of happiness for every one of them impossible;' framed with this view, with all the intellectual power which might have been engaged in this service, aided by all the experience accumulated from generation to generation, and to the stores of which every hour of every day must, without ceasing, add; framed, that is, with all the wisdom at all times at command, wisdom necessarily approximating to perfection, with the progression of time—had this been done, not to speak of new sources of pleasure which might, and which probably would have been opened, but of which we have now no conception; not to speak of new creations of felicity, the existence of which, however within the range of possibility, must be admitted to be imaginary, until actually in existence; not to speak of any pleasures the reality and the value of which are not well known and duly appreciated—had the real, the uniform purpose, been what I have been supposing, how many pleasures, now within the reach only of the few, would then have been in the possession of the many; and how many pains, from which only the few have now the means of security, would then have been averted from all!

"The contrast thus presented to the mind, between the condition of the great mass of human beings as it is, as it might have been, and as it actually would have been, had legislators and moralists aimed at the right end, and pursued it with singleness and sincerity, will be contemplated by every man with a degree of pain proportioned to the strength of his understanding, and the intensity of his sympathy.

"At an age when the intellectual power which he felt within him was in its freshness, when the moral affections which warmed his heart were unchilled by contact with the world—when the affectionate sympathy for his fellow-beings, which formed so large a part of his consciousness, and which subsequently became the ruling passion of his life, was in its first ardour, this contrast, in its full force, was brought before the view of this illustrious man. Destined by the will of his father to the study and practice of the English law, he commenced the study, and entered on the practice. But what was the position in which he found himself placed? What, when examined by a simple and clear understanding—what, when the practical operation of it came to be witnessed by a pure and benevolent heart—was the English law? Like every one else, for ages past, he had been told that it was the perfection of human reason. According to those who taught it, according to those who practised it, according to those who subsisted by it, according even to those who suffered by it—suffered evils countless in number and measureless in extent, it was matchless alike for the purity of its aims, and the efficiency of the means provided for their accomplishment; it was a fabric reared by the most exalted intellects; reared with incredible labour, through a long succession of ages, with a difficulty not to be estimated, yet with a skill so admirable, and a result so felicitous, as had never before been witnessed in any work merely human. The understanding that did not bow down before it, that did not worship it with prostrate reverence, was low and base: the hand that was raised to touch so much as a single particle of it, to change it, was profane. It was the master-production of the matured, experienced, and virtuously-disposed human mind; it was the wonder and perfection of civilisation; it gave to this blessed country that amazing amount of felicity, by the enjoyment of which its people have been so long distinguished from all other people in the world, making them the glory of the earth, the envy of the surrounding nations.

"Such was the language universally held, and the doctrine universally inculcated; and that not merely with religious ardour, but with enthusiast zeal; and inculcated alike from the humble desk of the village school, the

pulpit, the bar, the bench, the senate, and the throne.

"And yet the English law thus idolised, when the substance of it came to be examined by a simple and clear understanding—when the mode of administering it came to be witnessed by a pure and benevolent heart, what was it found to be? The *substantive* part of it, whether as written in books or expounded by judges, a chaos, fathomless and boundless; the huge and monstrous mass being made up of fiction, tautology, technicality, circuity, irregularity, and inconsistency: the *administrative* part of it, a system of exquisitely contrived chicanery; a system made up of abuses; a system which constantly places the interest of the judicial minister in opposition to his duty; so places his interest in opposition to his duty, that in the very proportion in which it serves his ends, it defeats the ends of justice; a system of self-authorized and unpunishable depredation; a system which encourages mendacity, both by reward and punishment; a system which puts fresh arms into the hands of the injurer, to annoy and distress the injured; in a word, a system which maximizes delay, sale, and denial of justice.

"'Shall I uphold this vile system?' said this just and benevolent man. 'Shall the prospect of obtaining wealth, shall the hope of being what is called rewarded with titles and honours, tempt me to assist in perpetuating it? Shall I do what in me lies to extend the wide-spread misery which flows from it? No. I will exhibit it in its true shape; I will strip off the veil of mystery which has so long concealed its deformity; I will destroy it. I will do more. For this chaos I will substitute order; for this darkness, light; for this evil, good. THE MAXIMUM OF THE AGGREGATE OF HAPPINESS—by this test I will try evil and good; this shall be my standard, this my guide. I will survey the entire range of human feelings and volitions—such at least as can assume the shape of actions; and as they pass in review before me, I will determine by this rule what shall be sanctioned, and what prohibited. I will rear the fabric of felicity by the hands of reason and of law!'

"With powers of mind fitted for an undertaking thus stupendous, such as in no age or country had ever before been equalled, or even so much as approached; with an ardour and energy such as in no cause, bad or good, had ever been surpassed, he betook himself to the accomplishment of this work. No difficulty stopped him; no danger appalled him; no labour exhausted him; no temptation, whether assuming the shape of good or of evil, moved him; fortune he disregarded; the pursuit of what is called pleasure he renounced; praise could as little bend him from his course, as blame could check it; human fear, human favour, had no control, no influence over him; human happiness was his object, judicial institution his means; and the completeness with which he has succeeded in developing the means, is comparable only to the beneficence of the end.

In order to create, it was necessary that he should destroy; in order to build up, it was necessary that he should pull down; in order to establish law as it ought to be, it was necessary that he should demolish law as it is. Alone he went to the assault, alone he carried it on; every weapon, every mode of attack—ridicule, reasoning, invective, wit, eloquence, sarcasm, declamation, demonstration—all were pressed into his service, and each in its turn became in his hands a powerful instrument. His efforts were regarded first with astonishment, next with indignation. When he was no longer looked upon as a madman, he was hated as an enemy. He was endeavouring to subvert the most glorious of human institutions; institutions which had raised his country to the highest pinnacle of power and happiness; institutions which time, and the experience which time matures, had shown to be at least the nearest approach to perfection which the wit of man had ever devised. Such declarations (and such delarations were made in abundance, and were reiterated with all the eloquence which large bribes given now, and larger bribes promised

in future, could secure) did but redouble his efforts to expose the delusion; to show that reason had seldom anything to do in the construction of the institutions thus idolised; that they seldom aimed at the right end, and still seldomer provided adequate means to accomplish the end even as far as the aim was right. Long and earnestly did he labour without any apparent effect; but at last some impression was made; the scales fell from the eyes of men of powerful intellects in commanding stations; the imposture became palpable; the monstrous idolatry before which men had allowed their understandings and their affections to fall prostrate, was seen in its true shape. A revulsion of feeling followed. Point after point was submitted to rigorous examination. Champion after champion stood forth in defence of each; champion after champion was driven from his position, however impregnable he thought it; and now, scarcely a single champion remains. The cumbrous fabric is abandoned; it totters to its fall; it is undermined; it is known to be so. The general admission is, that the law of England, as it is, cannot stand; that it must be taken down, and reconstructed. Glory to the hand that has destroyed it! Glory to the hand that has built up the beautiful structure reared in its place!

"I will endeavour, in few words, to give some conception of the foundation of this new structure; of its main compartments; of its form, such as it has assumed in the hands of its architect, now capable of no further labour. Happily, however, as you will see, what remains to complete the edifice can be furnished by other hands.

"Comprehending in his view the entire field of legislation, this legislator divided it into two great portions—internal law and international law; internal law including the legislative ordinances that concern an individual community; international law, those that concern the intercourse of different communities with each other. His chief labour was directed to the construction of an all-comprehensive system or code (that is, law written and systematic) of internal law. Under the term PANNOMION, a term derived from two Greek words, signifying "the whole body of the laws," he has constructed such a code. This all-comprehensive code is divided into four minor codes; the Constitutional, the Civil, the Penal, and the Administrative. The Constitutional Code includes the several ordinances which relate to the form of the supreme authority, and the mode by which its will is to be carried into effect. The Civil Code includes the several ordinances which relate to the creation or constitution of rights, and is termed the *Right*-conferring Code. The Penal Code includes the several ordinances which relate to the creation or constitution of offences, and is termed the *Wrong*-repressing Code. The Administrative Code includes the several ordinances which relate to the mode of executing the whole body of the laws, and is termed the Code of Procedure. CONDUCIVENESS TO THE MAXIMUM OF THE AGGREGATE OF HAPPINESS—that is the end in view. Each code is a distinct instrument specially adapted to secure this end. Each code has not, indeed, been left by him in a state of completeness; but in no part of either, as far as it has been developed, is place given to a single enactment which has not for its object, immediately or remotely, the production of pleasure and the exclusion of pain. In no part, either of what he has himself done, or marked out to be done by others, is anything commanded—in no part is anything forbidden, but as it is, and in as far as it is, conducive to or subversive of happiness;—no constitutional provision, determining the form of the government and the mode of its operation—no action, bearing the seal of approbation or of disapprobation, selected as the subject of reward or of punishment, which is not brought to this standard and tried by this test. It is only as the details under these two great divisions are studied, that it is possible to form a conception of the steadiness with which this end is kept in view, and the wisdom with which the means devised are adapted to secure it. To the Civil Code he has done the least; but even of this he

has laid the foundation, and provided important materials for building up the fabric. For the Constitutional Code he has done enough to render its completion comparatively easy; while the all-important branches of Offences, of Reward and Punishment, of Procedure, of Evidence, have been worked out by him with a comprehensiveness and minuteness which may be said to have exhausted these subjects, and to have left little or nothing in relation to them for any other man to do or to desire.*

"But his labours did not terminate here. He found the science of morals in the same state of darkness as that of legislation. The Fitness of Things, the Law of Nature, Natural Justice, Natural Equity, Good Order, Truth, the Will of God—such were the tests of good and evil, the standards of right and wrong, heretofore assumed by moralists. Every different moralist had a different fancy which he made his standard, and a different taste which he made his test of good or evil; and the degree of conformity or non-conformity to that taste, the indication of the degree of desert, and consequently the measure of reward and punishment.†

"But by establishing the foundation of morals on the principle of felicity; by showing that every action is right or wrong, virtuous or vicious, deserving of

* "It will be long before the mass of educated people in this country are sufficiently advanced to read and appreciate these profound and admirable works; but the time is not distant, when, however they may be now neglected by the present members of our legislature, it will be universally deemed alike absurd and disgraceful for any man to aspire to the character, much less to the seat of a legislator, who has not made them his study."

† "In his work on Legislation and Morals, this philosopher had long ago laid down the principle of felicity as the basis of morals, and shown that all other foundations attempted to be established, different as they are, and even opposite as they seem to be, to each other, are capable of being reduced to two—asceticism and sentimentalism. The principle of asceticism, like that of felicity, approves or disapproves of an action according to its tendency to augment or diminish happiness, but in an inverse manner; approving of an action in as far as it tends to diminish happiness, disapproving of it in as far as it tends to augment it. Whoever reprobates any the least particle of pleasure, as such, from whatever source derived, is, *pro tanto*, a partisan of the principle of asceticism. The principle of felicity is capable of being consistently pursued, that of asceticism is not. Let but one-tenth part of the inhabitants of this earth pursue it consistently, and in one day's time they will have turned it into a hell.

"By the principle of sentimentalism is meant that principle which approves or disapproves of an action, not on account of its tendency to augment or to diminish happiness, but because a person finds himself disposed to approve or disapprove of the action in question; that approbation or disapprobation being assumed as sufficient of itself, and the necessity of looking out for any external ground being expressly disclaimed. This is not so much a positive principle, as a term employed to signify the negation of all principle. A principle is something which points out some external consideration as a means of warranting and guiding the internal sentiment of approbation and disapprobation: but that which merely holds up each of these sentiments as a ground and standard for itself, is not worthy of the name.

"In examining the catalogue of human actions with a view of determining which are to be marked with the seal of disapprobation, (says a partisan of this principle,) you need but to take counsel of your own feelings. Whatever you find in yourself a propensity to condemn, is wrong for that very reason. For the same reason, it is also meet for punishment. The proportion in which it is adverse to happiness, the not being adverse to happiness at all, is of no manner of consequence. The degree of disapprobation you feel, is also the measure of punishment. If you hate much, punish much; if you hate little, punish little: punish as you hate. If you hate not at all, punish not at all. The fine feelings of the soul are not to be outborne and tyrannized by the hard and rugged dictates of political utility.

"The various principles that have been formed concerning the standard of right and wrong, may all be reduced to this principle of sympathy and antipathy. One account may serve for all of them. They all consist in so many contrivances for avoiding the obligation of appealing to any external standard, and in referring to the sentiment of approbation or disapprobation as the ultimate reason or the true standard. It is curious to observe the variety of inventions contrived for this purpose; the phrases different,—the principle the same.

"Thus, one man says he has a thing made on purpose to tell him what is right and what is wrong, and that it is called a *moral sense;* and then he goes to work at his ease, and says such a thing is right, and such a thing is wrong—Why? 'Because my moral sense tells me it is.'

"Another man comes, and alters the phrase; leaving out *moral*, and putting in *common* in the room of it. He then tells you that his common sense teaches him what is right and wrong as surely as the other's moral sense did; meaning by common sense, a sense of some kind or other, which, he says, is possessed by all mankind: the sense of those whose sense is not the same as the author's being struck out of the account as not worth taking. This contrivance does better than the other; for a moral sense, being a new thing, a man may feel about him a good while without being able to find it out. But common sense is as old as the creation; and there is no man but would be ashamed to be thought not to have as much of it as his neighbours. It has another great advantage—by appearing to share power, it lessens envy;

approbation or disapprobation, in proportion to its tendency to increase or to diminish the amount of happiness, this philosopher supplied what was so much needed in morals, at once an infallible test and an all-powerful motive. Happiness is the standard and the test, happiness is equally the motive; can there be, if this be not a certain test? can there be, if this be not an all-powerful motive? Conduciveness to happiness—this it is that constitutes the goodness of an action; this it is that renders an action a duty; this it is which supplies a motive to the performance of duty not to be resisted. I am satisfied that a particular course of conduct will conduce to my happiness: do I need any other inducement to make me pursue that course? can I resist the influence of this inducement? No. As long as this is my conviction, as long as this conviction is present to my mind, it is no more possible for me to refrain from pursuing the course of conduct in question, than

for when a man gets up upon this ground, in order to anathematise those who differ from him, it is not by a *sic volo sic jubeo*, but by a *velitis jubeatis*.

"Another man comes, and says, that as to a moral sense, indeed, he cannot find that he has any such thing; that, however, he has an *understanding*, which will do quite as well. This understanding, he says, is the standard of right and wrong—it tells him so and so. All good and wise men understand as he does; if other men's understandings differ in any point from his, so much the worse for them—it is a sure sign they are either defective or corrupt.

"Another man says, that there is an eternal and immutable Rule of Right; that that rule of right dictates so and so; and then he begins giving you his sentiments upon anything that comes uppermost; and these sentiments (you are to take for granted) are so many branches of the eternal Rule of Right.

"Another man, or perhaps the same man, (it is no matter,) says, that there are certain practices conformable, and others repugnant, to the Fitness of Things; and then he tells you, at his leisure, what practices are conformable, and what repugnant: just as he happens to like a practice, or dislike it.

"A great multitude of people are constantly talking of the Law of Nature; and then they go on giving you their sentiments about what is right and what is wrong: and these sentiments, you are to understand, are so many chapters and sections of the Law of Nature. Instead of the phrase Law of Nature, you have sometimes Law of Reason, Right Reason, Natural Justice, Natural Equity, Good Order. Any of them will do equally well.

"We have one philosopher who says, there is no harm in anything in the world but in telling a lie; and that if, for example, you were to murder your own father, this would only be a particular way of saying, he was not your father. Of course, when this philosopher sees anything that he does not like, he says, 'It is a particular way of telling a lie: it is saying that the act ought to be done, when, *in truth*, it ought not to be done.'

"The fairest and openest of them all is that sort of man who speaks out, and says, 'I am of the number of the Elect: now God himself takes care to inform the Elect what is right; and that with so good effect, that, let them strive ever so, they cannot help not only knowing it, but practising it. If, therefore, a man wants to know what is right and what is wrong, he has nothing to do but to come to me.'

"The mischief common to all these ways of thinking and arguing (which, in truth, as we have seen, are but one and the same method, couched in different forms of words) is their serving as a cloak, and pretence, and aliment to despotism: if not a despotism in practice, a despotism, however, in disposition, which is but too apt, when pretence and power offer, to show itself in practice. The consequence is, that, with intentions very commonly of the purest kind, a man becomes a torment either to himself or his fellow-creatures. If he be of the melancholy cast, he sits in silent grief, bewailing their blindness and depravity; if of the irascible, he declaims with fury and virulence against all who differ from him; blowing up the coals of fanaticism, and branding with the charge of corruption and insincerity every man who does not think, or profess to think, as he does.

"'I feel in myself,' say you, 'a disposition to approve of such or such an action in a moral view; but this is not owing to any notion I have of its being a useful one to the community. I do not pretend to know whether it be an useful one or not: it may be, for aught I know, a mischievous one.' 'But is it then,' say I, 'a mischievous one? Examine; and if you can make yourself sensible that it is so, then, if duty means anything, that is moral duty, it is your *duty*, at least, to abstain from it; and more than that, if it is what lies in your power, and can be done without too great a sacrifice, to endeavour to prevent it. It is not your cherishing the notion of it in your bosom, and giving it the name of virtue that will excuse you.'

"'I feel in myself,' say you again, 'a disposition to detest such or such an action in a moral view; but this is not owing to any notion I have of its being a mischievous one to the community. I do not pretend to know whether it be a mischievous one or not: it may be not a mischievous one; it may be, for aught I know, an useful one.' 'May it, indeed,' say I, 'be an useful one? But let me tell you then, that unless duty, and right and wrong, be just what you please to make them, if it really be not a mischievous one, and anybody has a mind to do it, it is no duty of yours, but, on the contrary, it would be very wrong in you, to take upon you to prevent him. Detest it within yourself as much as you please—that may be a very good reason (unless it be also an useful one) for your not doing it yourself. But if you go about, by word or deed, to do anything to hinder him, or make him suffer for it, it is you, and not he, that have done wrong; it is not your setting yourself to blame his conduct, or branding it with the name of vice, that will make him culpable, or you blameless.'"
—*Introduction to the Principles of Morals and Legislation*, p. 28 *et seq.*

it is possible for my body to refuse to obey the laws of gravitation.

"The object of the science of morals, then, is to show what is really conducive to happiness; the happiness of every individual man; the happiness of all men taken together, considered as forming one great aggregate; the happiness of all beings whatever, that are capable of the impression: for the science, in its enlarged sense, embraces not only the human race, but the whole of the sentient creation.

"According to the felicitarian philosophy, there is no contrariety, and there never can be any real contrariety, between happiness and duty. In the true and comprehensive sense of those terms, happiness and duty are identical; always so; and always necessarily so. They do not always appear to be so; but it is the business of the moralist to show, that whenever an apparent contrariety exists, the appearance is delusive. When he has accomplished this, he has effected his end; because, when he has accomplished this, my will—my action, as necessarily follows in the direction in which it is his purpose to guide it, as a stone projected from the earth necessarily falls to the earth again.

"And the apparent contrariety between happiness and duty, from what does it arise? Either from the representation of that as happiness which is not happiness, or from the representation of that as duty which is not duty. And what is at the bottom of this misrepresentation? Either I take into view *only* my own gratification, to the exclusion of the gratification of others; or I take into view only my *immediate* gratification, to the exclusion of a higher gratification at some future period; or I commit both errors at once. Now, it is the business of the moralist to prevent me from falling into either; to make me acquainted with the cases in relation to which the gratification of others is essential to my own; in relation to which my own gratification must necessarily flow from the gratification of others; in relation to which, if I attempt to pursue my own gratification without taking into account the gratification of others, and more especially at the expense of their gratification, instead of securing happiness to myself, I shall be sure to involve myself in suffering: to make me acquainted, in like manner, with the cases in relation to which it is necessary that I should take a comprehensive view of happiness; that I should consider not merely the pleasure of the moment or the hour, but the pleasure of the year, or the remainder of my life. To make these matters as clear to my understanding as the light of day is visible to my eye, is the business of the moralist; often, no doubt, a difficult task: because, although the connexion between a certain course of conduct, and happiness and misery, may be quite as real, and quite as invariable, as that between light and vision, yet not being so immediate, the invariableness of the sequence is not so clearly seen by the mind. To bring this sequence out from the obscurity in which it may be involved, and to make it manifest; to discover and to show what moral antecedents are invariably followed by what moral sequents; to establish in the mind a conviction of this invariableness of connexion between the one and the other—this is the province of the moralist. As he multiplies the antecedents and sequents, in regard to which he makes out the fact that there is this invariableness of relation, he enlarges his science; in proportion to the completeness with which he fixes in the mind a conviction of this relation, he fulfils its end.

"It is this which our great legislator and moralist ever kept steadily in view. Whatever it is for a man's happiness to do, or to abstain from doing, that, as a legislator, he commands or forbids; whatever it is for a man's happiness to do, or to abstain from doing, that, as a moralist, he makes it his duty to pursue or to avoid.*

* "All laws," he says, "which have for their end the happiness of those concerned, endeavour to make, and, in the degree in which they are wise and effective, actually do make, that for a man's happiness which they proclaim to be his duty. That a man ought to sacrifice his happiness to his duty, is a common position; that such or such a man has sacrificed his happiness to his duty, is a common assertion, and made the groundwork of admir-

In selecting, as a legislator, the subjects of reward and punishment, he is invariably guided by this principle: that if, by misrepresentation of consequences, by erroneous reasoning, or by fear of punishment, whether physical, moral, political, or religious, a man be prohibited from the enjoyment of any real pleasure, from whatever source derived, an injury is inflicted upon him equal in amount to the balance of pleasure of which he is deprived. For this reason, in no single instance, in any law proposed by him, is anything commanded which is not, in some shape or other, conducive to pleasure; not anything forbidden, which is not, in some shape or other, conducive to pain.

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ation. But when happiness and duty are considered in their broadest sense, it will be seen that, in the general tenor of life, the sacrifice of happiness to duty is neither possible nor desirable; that it cannot have place; and that if it could, the interests of mankind would not be promoted by it.

"'Sacrifice, sacrifice!' is the demand of the every-day moralist. Sacrifice, taken by itself, is mischievous; and mischievous is the influence that connects morality with suffering. Morality is, then, the most effective when it is the least painful. Its associations are cheerfulness and joy, not gloom and misery. The less of happiness is sacrificed, the greater must be the total sum of happiness. Let it be obtained *gratis* where it can; where it cannot be had without sacrifice, let the sacrifice be as small as possible; where the sacrifice will be great, let it be ascertained that the happiness will be greater. This is the true economy of pleasure; this is the prolific cultivation of virtue.

"In treating of morals, it has hitherto been the invariable practice to speak of man's duty, and nothing more. Yet, unless it can be shown that a particular action, or course of conduct, is for a man's happiness, the attempt to prove to him that it is his duty, is but a waste of words. Yet, with such waste of words has the field of ethics been filled. A man, a moralist, gets into an elbow-chair, and pours forth pompous dogmas about duty and duties. Why is he not listened to? Because every man is thinking about interests. It is a part of his very nature to think first about interests. It is not always that he takes a correct view of his interests. Did he always do that, he would obtain the greatest possible portion of felicity; and were every man, acting with a correct view to his own interest, to obtain the maximum of obtainable happiness, mankind would have reached the millennium of accessible bliss, and the end of morality, the general happiness, would be accomplished. To prove that an immoral action is a miscalculation of self-interest—to show how erroneous an estimate the vicious man makes of pains and pleasures—this is the purpose of the sound and intelligent moralist. Unless he does this, he does nothing; for that a man should not pursue what he deems conducive to his happiness, is in the very nature of things impossible.

"There is the like coincidence between selfishness and benevolence; between the self-regarding and the extra-regarding principle; between what may be termed self-regarding prudence, and efficient benevolence. The first law of nature is—Seek your own happiness. The united voices of self-regarding prudence and efficient benevolence add—Seek the happiness of others; seek your own happiness in the happiness of others.

"The self-regarding affection is not only not a vice, but a virtue; and not only a virtue, but a virtue on which the very existence of the race depends. If I thought more about you than I thought about myself, I should be the blind leading the blind, and we should fall into the ditch together. It is as impossible that your pleasures should be better to me than my own, as that your eyesight should be better to me than my own. My happiness, and my unhappiness, are as much a part of me as any of my organs or faculties. What is demanded by prudence is, then, required by necessity. I could not continue to exist, but for the continuance of the selfish principle. Had Adam cared more for the happiness of Eve than for his own, and Eve at the same time more for the happiness of Adam than for her own, Satan might have spared himself the trouble of temptation; mutual misery would have marred all prospect of bliss, and the death of both have brought to a speedy termination the history of man.

"And yet, to disregard the social affections—not to look to them as sources of happiness—not to seek happiness in them, is the capital error which it is the business of the moralist to correct. While engaged in the pursuit of immediate pleasure, and the avoidance of immediate pain, we may, for the sake of what is present, sacrifice a greater distant pleasure, or occasion a greater distant pain; for nature, artless and untutored nature, engages man in the pursuit of immediate pleasure, and in the avoidance of immediate pain. And while acting under the influence of the self-regarding affection, we may neglect or violate the social. It is the business of the moralist to prevent both of these errors; to place before the eyes of the actor a more correct and complete view of the probable future, than he is likely to obtain in the midst of present influences; to assist him in making reflections, and drawing conclusions; to point out ends which had not suggested themselves, and means by which those ends may be accomplished; to perform the duty of a scout, a man hunting for consequences—consequences resulting from a particular action or course of action, collecting them in the completest manner, and presenting them in the best form for use. In a word, as the whole of virtue consists in the sacrifice of a smaller present satisfaction, to a satisfaction of greater magnitude, but more remote, so the sum of moral science consists in establishing the true distinction between, and the ultimate and perfect coincidence of, prudence and benevolence. This is truly the spear of Ithuriel, by which evil and good are made to present themselves in their own shapes. The self-regarding principle, which takes not into account the interests of others, which takes not into account anything future, has as little in it of prudence as of benevolence; it is truly the killing the goose for the golden egg. 'Myself, myself'—'Now, now,' are but the cries of insensibility to happiness; and insensibility to evil—evil certain, though not instant, is a dear advantage to its possessor."—*Deontology.*

"In like manner, in deciding, as a moralist, what is proper or improper, right or wrong, virtuous or vicious, he is guided by the principle, that every one must determine, from his own experience, what is pleasurable and what is painful; that no one has a right to insist, that what is gratification to him, and *only* what is gratification to him, shall be gratification to another; that for any man, in the capacity of a moralist, to say—'If I do this, I shall get no preponderance of pleasure; but if you do this, you may get a preponderance of pleasure, yet it is not proper that you should do it,' is absurdity: that if such moralist apply evil in any shape to prevent the act, it is injustice and injury; that if he call in the powers of government to prevent the act, it is tyranny: that nevertheless there are pleasures which are pure, that is, unmixed with pain; pleasures which are lasting; pleasures which are cumulative, the very capacity for enjoying them continually increasing with the indulgence; that these are the truest, because the greatest pleasures; that these deserve the most careful cultivation: but that to imagine that any pleasure can come from a bad source; that whatever yields pleasure, that is, *preponderance* of pleasure, is not good—good for that reason, and in that proportion—is to despise one pleasure because it is not another, to despise a smaller pleasure because it is not a greater; which is absurd. What a cultivation of happiness is here! What true husbandry of it! What a thorough rooting-out of the tares so often sown with the wheat while the legislator and the moralist have slept!

"After this account of the labours of the philosopher, you will perhaps be desirous of knowing something of his private history and habits; and there are some points relative to both, which now assume a peculiar interest.

"Jeremy Bentham was born at the residence of his father, adjacent to Aldgate Church, in London, on the 15th of February, 1747-8, and died in Queen's Square Place, Westminster, where he had resided nearly half a century, on the 6th of June, 1832, being in the 85th year of his age. He was a precocious child. At the age of three years, he read Rapin's History of England as an amusement. At the age of five, he had acquired a knowledge of musical notes, and played on the violin. At the age of seven, he read Télémaque in French. At the age of eight, he entered Westminster School, where he soon became distinguished. At the age of thirteen, he was admitted a member of Queen's College, Oxford, where he at once engaged in public disputations in the Common Hall, and excited, by the acuteness of his observations, the precision of his terms, and the logical correctness of his inductions, the surprise and admiration of all who heard him. At the age of sixteen, he took his degree of A.B.; and at the age of twenty that of A.M.; being the youngest graduate that had at that time been known at either of the Universities. From early childhood, such was the contemplative turn of his mind, and the clearness and accuracy with which he observed whatever came under his notice, that at the age of five years he had already acquired the name of 'the philosopher,' being familiarly called so by the members of his family; and such, even in his youth, were the indications of that benevolence to which his manhood and his old age were consecrated, that a celebrated statesman, who at that period had conceived an affection for him, and with whom he spent most of his time during the interval of his leaving Westminster School and going to Oxford, speaks of him, in a letter to his father, in these remarkable words—'His disinterestedness, and his originality of character, refresh me as much as the country air does a London physician.'

"The qualities which already formed the charm of his character, and which grew with his growth and strengthened with his strength, were truth and simplicity. Truth was deeply founded in his nature as a principle; it was devotedly pursued in his life as an object; it exercised, even in early youth, an extraordinary influence over the operations of his mind and the affections of his

heart; and it was the source of that moral boldness, energy, and consistency, for which, from the period of manhood to the close of life, he was so distinguished. There was nothing in the entire range of physical, moral, or legislative science; nothing whatever relating to any class of subjects that could be presented to his understanding; nothing, however difficult other men thought it, or pretended to think it—or with whatever superstitious, political, or religious reverence and awe they regarded, or affected to regard it, which he did not approach without fear, to the very bottom of which he did not endeavour to penetrate: the mystery regarding which he did not strive to clear away; the real, the whole truth of which, he did not aim to bring to light. Nor was there any consideration—no, not even apparent danger to the cause he advocated, though, by the desertion of friends and the clamour of foes, that cause might seem for a while to be put in jeopardy, that could induce him to conceal any conclusion at which he arrived, and of the correctness of which he was satisfied, or could prevent him from expressing it in the most appropriate language at his command. It was not possible to apply his principle to all the points and bearings of all the subjects included in the difficult and contested field of legislation, government, and morals,—to apply it as he applied it, acutely, searchingly, profoundly, unflinchingly,—without consequences at first view startling, if not appalling, to strong minds and stout hearts. They startled not, they appalled not him, mind or heart. He had confidence in his guide; he was satisfied that he might go with unfaltering step wherever it led; and with unfaltering step he did go wherever it led. Hence his singleness of purpose; hence, in all his voluminous writings, in all the multiplicity of subjects which have come under his investigation, as well those which he has exhausted, as those which he has merely touched; as well those which are uncomplicated by sinister interests and the prejudices which grow out of them, as those which are associated with innumerable false judgments and wrong affections: hence, in regard to not one of them does a single case occur in which he has swerved from his principle or faltered, or so much as shown the slightest indication of faltering in the application of it.

"That he might be in the less danger of falling under the influence of any wrong bias, he kept himself as much as possible from all personal contact with what is called the world. Had he engaged in the active pursuits of life—money-getting, power-acquiring pursuits—he, like other men so engaged, must have had prejudices to humour, interests to conciliate, friends to serve, enemies to subdue; and therefore, like other men under the influence of such motives, must sometimes have missed the truth, and sometimes have concealed or modified it. But he placed himself above all danger of this kind, by retiring from the practice of the profession for which he had been educated, and by living in a simple manner on a small income allowed him by his father: and when, by the death of his father, he at length came into the possession of a patrimony which secured him a moderate competence, from that moment he dismissed from his mind all further thought about his private fortune, and bent the whole powers of his mind without distraction to his legislative and moral labours. Nor was he less careful to keep his benevolent affections fervent, than his understanding free from wrong bias. He surrounded himself only with persons whose sympathies were like his own, and whose sympathies he might direct to their appropriate objects in the active pursuits of life. Though he himself took no part in the actual business of legislation and government, yet, either by personal communication or confidential correspondence with them, he guided the minds of many of the most distinguished legislators and patriots, not only of his own country, but of all countries in both hemispheres. To frame weapons for the advocates of the reform of the institutions of his own country, was his daily occupation and his highest pleasure; and to him resorted, for counsel and encouragement, the most able and devoted of

those advocates; while the patriots and philanthropists of Europe, as well as those of the New World, the countrymen of Washington, Franklin, and Jefferson, together with the legislators and patriots of South America, speak of him as a tutelary spirit, and declare the practical application of his principles to be the object and end of their labours.

"While he availed himself of every means in his power of forming and cherishing a friendship with whoever in any country indicated remarkable benevolence; while Howard was his intimate friend—a friend delighted alike to find and to acknowledge in him a superior beneficent genius; while Romilly was not only the advocate of his opinions in the Senate, but the affectionate and beloved disciple in private; while for the youth La Fayette, his junior contemporary, he conceived an affection which in the old age of both was beautiful for the freshness and ardour with which it continued to glow; while there was no name in any country known and dear to Liberty and Humanity which was not known and dear to him, and no person bearing such name that ever visited England who was not found at his social board, he would hold intercourse with none of any rank or fame whose distinction was unconnected with the promotion of human improvement, and much less whose distinction arose from the zeal and success with which they laboured to keep back improvement. That the current of his own benevolence might experience no interruption or disturbance, he uniformly avoided engaging in any personal controversy; he contended against principles and measures, not men; and for the like reason he abstained from reading the attacks made upon himself, so that the ridicule and scoffing, the invective and malignity, with which he was sometimes assailed, proved as harmless to him as to his cause. By the society he shunned, as well as by that which he sought, he endeavoured to render his social intercourse subservient to the cultivation, to the perpetual growth and activity, of his benevolent sympathies.

"With such care over his intellectual faculties and his moral affections, and with the exalted direction which he gave to both, his own happiness could not but be sure. Few human beings have enjoyed a greater portion of felicity; and such was the cheerfulness which this internal happiness gave to the expression of his countenance and the turn of his conversation, that few persons ever spent an evening in his society, however themselves favoured by fortune, who did not depart with the feeling of satisfaction at having beheld such an object of emulation. Even in his writings, in the midst of profound and comprehensive views, there oftentimes break forth a sportiveness and humour no less indicative of gaiety of heart, than the most elaborate and original of his investigations are of a master-mind: but this gaiety was characteristic of his conversation, in which he seldom alluded, except in a playful manner, to the great subjects of his labours. A child-like simplicity of manner, combined with a continual playfulness of wit, made you forget that you were in the presence of the most acute and penetrating genius; made you conscious only that you were in the presence of the most innocent and gentle, the most consciously and singularly happy of human beings. And from this the true source of politeness, a benevolent and happy mind, endeavouring to communicate the pleasure of which it is itself conscious, flowed those unobtrusive, but not the less real and observant, attentions of which every guest perceived the grace and felt the charm. For the pleasures of the social board he had a relish as sincere, and perhaps as acute, as those who are capable of enjoying no others; and he partook of them freely, as far as they are capable of affording their appropriate good, without any admixture of the evils which an excessive indulgence in them is sure to bring. After dinner, it was his custom to enter with his disciple or friend (for seldom more than one, and never more than two, dined with him on the same day) on the discussion of the subject, whatever it might be, which had brought them to-

gether; and it was at this time also, that, in the form of dictation, in relation to those subjects which admit of this mode of composition, his disciple writing down his words as he uttered them, he treated of some of the subjects which have occupied his closest attention, and in the investigation of which he has displayed the greatest degree of originality and invention. In this manner was composed the greatest part of the Deontology, and nearly the whole of his Autobiography. At all times it was a fine exercise of the understanding, and sometimes an exquisite gratification of the noblest and best feelings of the heart, to be engaged in this service.

"He was capable of great severity and continuity of mental labour. For upwards of half a century he devoted seldom less than eight, often ten, and occasionally twelve hours of every day, to intense study. This was the more remarkable, as his physical constitution was by no means strong. His health, during the periods of childhood, youth, and adolescence, was infirm; it was not until the age of manhood that it acquired some degree of vigour: but that vigour increased with advancing age, so that during the space of sixty years he never laboured under any serious malady, and rarely suffered even from slight indisposition; and at the age of eighty-four he looked no older, and constitutionally was not older, than most men are at sixty; thus adding another illustrious name to the splendid catalogue which establishes the fact, that severe and constant mental labour is not incompatible with health and longevity, but conducive to both, provided the mind be unanxious and the habits temperate.

"He was a great economist of time. He knew the value of minutes. The disposal of his hours, both of labour and of repose, was a matter of systematic arrangement; and the arrangement was determined on the principle, that it is a calamity to lose the smallest portion of time. He did not deem it sufficient to provide against the loss of a day or an hour: he took effectual means to prevent the occurrence of any such calamity to him: but he did more: he was careful to provide against the loss even of a single minute; and there is on record no example of a human being who lived more habitually under the practical consciousness that his days are numbered, and that 'the night cometh, in which no man can work.'

"The last days of the life even of an ordinary human being are seldom altogether destitute of interest; but when exalted wisdom and goodness have excited a high degree of admiration and love, the heart delights to treasure up every feeling then elicited, and every word in which that feeling was expressed. It had long been his wish that I should be present with him during his last illness. There seemed to be on his mind an apprehension, that, among the organic changes which gradually take place in the corporeal system in extreme old age, it might be his lot to labour under some one, the result of which might be great and long-continued suffering. In this case, he knew that I should do everything in my power to diminish pain and to render death easy; the contributing to the *euthanasia* forming, in my opinion, as he knew, no unimportant part of the duty of the physician. On the possible protraction of life, with the failure of the intellectual powers, he could not think without great pain; but it was only during his last illness, that is, a few weeks before his death, that any apprehension of either of these evils occurred to him. From the former he suffered nothing; and from the latter, as little as can well be, unless when death is instantaneous. The serenity and cheerfulness of his mind, when he became satisfied that his work was done, and that he was about to lie down to his final rest, was truly affecting. On that work he looked back with a feeling which would have been a feeling of triumph, had not the consciousness of how much still remained to be done, changed it to that of sorrow that he was allowed to do no more: but this feeling again gave place to a calm but deep emotion of exultation, as he recollected that he left behind him able, zealous, and faithful

minds, that would enter into his labours and complete them.

"The last subject on which he conversed with me, and the last office in which he employed me, related to the permanent improvement of the circumstances of a family, the junior member of which had contributed in some degree to his personal comfort; and I was deeply impressed and affected by the contrast thus brought to my view, between the selfishness and apathy so often the companions of age, and the generous care for the welfare of others, of which his heart was full.

"Among the very last things which his hand penned, in a book of memoranda, in which he was accustomed to note down any thought or feeling that passed through his mind, for future revision and use, if susceptible of use, was found the following passage:—'I am a selfish man, as selfish as any man can be. But in me, somehow or other, so it happens, selfishness has taken the shape of benevolence. No other man is there upon earth, the prospect of whose sufferings would to me be a pleasurable one: no man is there upon earth, the sight of whose sufferings would not to me be a more or less painful one: no man upon earth is there, the sight of whose enjoyments, unless believed by me to be derived from a more than equivalent suffering endured by some other man, would not be of a pleasurable nature rather than of a painful one. Such in me is the 'force of sympathy!'

"And this 'force of sympathy' governed his very last hour of consciousness. Some time before his death, when he firmly believed he was near that last hour, he said to one of his disciples, who was
'I now feel that I am dying: our care must be to minimize the pain. Do not let any of the servants come into the room, and keep away the youths: it will be distressing to them, and they can be of no service. Yet I must not be alone: *you* will remain with me, and you only; and then we shall have reduced the pain to the least possible amount.'

"Such were his last thoughts and feelings; so perfectly, so beautifully did he illustrate, in his own example, what it was the labour of his life to make others!"

APPENDIX.

SELECTIONS FROM BENTHAM'S NARRATIVE REGARDING THE PANOPTICON PENITENTIARY PROJECT, AND FROM THE CORRESPONDENCE ON THE SUBJECT.

I MUST give a separate place to the Panopticon,* as it occupied so large a portion of Bentham's life, and is so constantly referred to in his correspondence. In 1830–1, he wrote a volume which he entitled, "History of the War between Jeremy Bentham and George the Third. By one of the Belligerents," containing an account of the progress and failure of the Panopticon Scheme. It is too long to reprint, but I shall extract from it the most remarkable passages. Bentham begins by saying:—

"But for George the Third, all the prisoners in England would, years ago, have been under my management. But

* A general conception of Bentham's projected plan, will be found in the following outline:—

"*Outline of the Plan of Construction of a Panopticon Penitentiary House: as designed by Jeremy Bentham, of Lincoln's Inn, Esq.*

"Thou art about my path, and about my bed: and spiest out all my ways.

"If I say, peradventure the darkness shall cover me, then shall my night be turned into day.

"Even there also shall thy hand lead me; and thy right hand shall hold me."

PSALM CXXXIX.

"The building *circular*—the cells occupying the circumference—the keepers, &c.—the centre—an *intermediate annular well* all the way up, crowned by a *sky-light* usually open, answering the purpose of a *ditch* in *fortification*, and of a *chimney* in *ventilation*—the cells, laid *open* to it by an iron *grating*.

"The *yards* without, laid out upon the same principle:—as also the *communication* between the building and the yards.

"By *blinds* and other contrivances, the keeper concealed from the observation of the prisoners, unless where he thinks fit to show himself: hence, on their part, the sentiment of an invisible omnipresence.—The whole circuit reviewable with little, or, if necessary, without any, change of place.

"*One* station in the inspection part affording the most perfect view of *two* stories of cells, and a considerable view of another:—the result of a difference of level.

"The same cell serving for *all* purposes: *work, sleep, meals, punishment, devotion:* The unexampled airiness of construction conciliating this economy with the most scrupulous regard to health. The minister, with a numerous, but mostly concealed auditory of visiters, in a regular *chapel* in the *centre*, visible to half the cells, which on this occasion may double their complement.

"The *sexes*, if both are admitted, *invisible* to each other.

"*Solitude*, or *limited seclusion, ad libitum.*—But, unless for punishment, limited seclusion in assorted companies of two, three, and four, is preferred: an arrangement, upon this plan alone exempt from danger. The degree of *seclusion* fixed upon may be preserved, in all places, and at all times, *inviolate.* Hitherto, where solitude has been aimed at, some of its chief purposes have been frustrated by occasional associations.

"The *approach*, *one* only—*gates* opening into a walled *avenue* cut through the area. Hence, no strangers near the building without *leave*, nor without being *surveyed* from it as they pass, nor without being known to come *on purpose.* The gates, of *open* work, to *expose hostile* mobs: on the other side of the road, a wall with a branch of the road behind, to *shelter peaceable* passengers from the fire of the building. A mode of fortification like this, if practicable in a city, would have saved the *London prisons*, and prevented the unpopular accidents in *St George's Fields.*

"The *surrounding wall*, itself surrounded by an open palisade, which serves as a fence to the grounds on the other side.—Except on the side of the approach, *no public path* by that fence.—A *sentinel's walk* between: on which no one else can set foot, without forcing the fence, and declaring himself a trespasser at least, if not an enemy. To the four walls, four such walks *flanking* and *crossing* each other at the ends. Thus each sentinel has two to check him.

"Thus simple are the leading principles.—The application and preservation of them in the detail, required, as may be supposed, some variety of contrivance.

"N.B.—The *expense* of this mode might, it is supposed, be brought *within half* that of the late ingenious Mr Blackburn's, which was £120 a

for George the Third, all the paupers in the country would, long ago, have been under my management.

"The work entitled 'Pauper Management,'*—the work to which this brief, and, it is hoped, not altogether uninstructive nor uninteresting history, is designed to serve as an introduction,—would have become law. But for George the Third, one of the joint wishes and endeavours of Pitt the Second and Lord Melville the First, to which no just condemnation can be attached, (would they had been more numerous,) would have been fulfilled.

"It was with me the war commenced. I confess it. I feel no need of being ashamed of it: it is for the reader to say to himself whether I have or no. Yes, I was the first aggressor,—meaning in the character of a subject making in a certain way war upon his sovereign. But whether that sovereign had not been intentionally an aggressor in endeavouring to plunge his subjects into a groundless war against a foreign sovereign, the reader will judge. I paralysed his hand. I saved the two countries, perhaps others likewise, from this calamity. He vowed revenge; and to effect it he wounded me through the sides of this his country, not to speak of so many others.†

"No muse shall I invoke: no muse would listen to me. A plain tale is all I have to tell: let others, if any, who may feel disposed and able, stick flowers in it.

"Catharine the Second had celebrity, nor that altogether undeserved. In a female body she had a masculine mind. She laid the foundation of a code,—an all-comprehensive code.

"My brother, whose loss I had to lament not many years ago,—my only brother, of whose education, he being nine years my junior, the superintendence fell into my hands, when on a traveller's visit to that country, was found possessed of rare talents, was arrested, put into office, and succeeded.

"In the year 1786, or 1787, I being on a visit to my brother, of a year and a half, or thereabouts, at Crichoff in White Russia, where he was stationed with a battalion of a thousand men under his command, on an estate then lately purchased by Prince Potemkin, Prime Minister of Russia, under Catharine the Second, the idea presented itself to him of a mode of architecture, to which I gave the name of Panopticon, from the two Greek words,—one of which signified everything, the other a place of sight. A Mr Pinchbeck, a sort of artist, who enjoyed more or less of the personal favour of George the Third, had either anticipated me, or afterwards followed me in the employment given to that name.

"The purpose to which this rotundo-form was destined to be employed by my brother, was that of a large workshop, in which, with or without the benefit of steam-engine power, occupations capable of being in any degree diversified, might be carried on; partitions in the form and position of radii of the circle being employed in separating from each other such as required to be so separated: in the centre was the apartment, styled, from its destination, the Inspector's Lodge: from thence by turning round his axis, a functionary, standing or sitting on the central point, had it in his power to commence and conclude a survey of the whole establishment in the twinkling of an eye, to use a proverbial phrase. But forasmuch as men had not in these days,—whatsoever may have been the case in the days of Pliny and the traveller Mandeville,—any visual organs seated in the back part of the human frame, it was considered accordingly, that it was material to good order, that the workmen, whose operations were designed to be thus watched, should not be able to know each of them respectively at any time, whether he was or was not at that moment in a state in which the eyes of the inspector were directed to his person in such manner as to take a view of it: accordingly, for the production of this effect, provision was made of an annular screen, pierced in such a manner with slits or holes, that

* See outline of it in the Works, vol. viii.

† See the dispute with George III. regarding the Letters of Anti-Machiavel, in chap. viii. of the Memoirs.

by any person it might be seen whether a person, whom, in this or that other part of the building, he was taking a view of, was knowing whether he was viewed or not.

"Taking in hand this idea, I made application of it for the purpose of the case in which the persons subjected to inspection, were placed in that situation, not only for the purpose of being subjected to direction, but also for the purpose of being made to suffer in the way of punishment: in a word, as a place of labour and confinement for convicts.

"To the carrying this design into effect, two requisites were necessary:—The first an appropriate form of architecture as above, and an appropriate plan of management, so organized as to draw from that mode of architecture, as far as practicable, all the advantages it was capable of affording. In the course of my reflections on this latter subject, I came to my conclusion, that the customary plan pursued in works instituted by Government, and carried on, on account of Government, was, in an eminent degree, ill adapted to the purpose: though to this general rule, particular exceptions there might be; but to the particular purpose then in hand, they had no application. Accordingly, management by contract, I became convinced, was the only plan that afforded a probability of good success.

"In pursuance of the labours of Howard, who died a martyr to benevolence, Sir William Blackstone, the illustrious Commentator on the Law of England—Sir Wlliam Blackstone, in connexion with Mr Eden, afterwards coroneted by the title of Lord Auckland, devised a plan of architecture and management of a prison for the confinement of convicts, and accordingly drew up for that purpose a Bill which received the official denomination of the *Hard-Labour Bill.* Their plan was in some form or other laid before the public, with such explanations as were thought requisite. The plan of management was—not contract-management, as above, but trust-management: the managing hands, whether one or more, not having any interest in the success: gaining nothing in case of profit, losing nothing in case of loss: in a word, their interest was not to be coincident with their duty. On the contrary, the one was destined to operate in constant opposition to the other: for where a man has nothing to gain by labour, it is his interest to be idle or do anything but labour.

"Actuated by these conceptions, I published, anno 1789, a tract, entitled, 'View of the Hard-Labour Bill.' * In this work I took in hand the plan of the two illustrious statesmen, applied to it the above principle, examined it in all its details, and the result was what appeared to me to be a complete demonstration of its inaptitude. Blackstone, notwithstanding the war I had made upon him in my 'Fragment on Government,' in answer to the present I made him of a copy of that little work sent me a civil note, acknowledging that he and his coöperator had derived assistance from it: they went to work notwithstanding, and obtained an Act of Parliament, under and by virtue of which they fixed upon a site for the erection. It was a spot of about fourscore acres, in the vicinity of Battersea, and distinguished by the name of Battersea Rise. For ascertaining the sum to be paid for it by Government, a jury, according to custom, was summoned, and assessed the value at a sum between six and seven thousand pounds. On payment of that sum it was in the power of Government at any time to take possession of it, and transfer it into any hands at pleasure.

"From causes not necessary to bring on this occasion to view, the undertaking lingered, and the verdict of the appraising jury remained without effect. Meantime, my brother remaining still in Russia, I was unable, for want of his assistance, to determine upon the exact form of the edifice, and through want of means, to make a proposal for the performance of the function in question by contract. In the year 1790, the return of my brother to England, furnished me with the requisite architectural skill; and the death of my father, which took

* At the commencement of vol. iv. of the Works.

place in March 1792, with the addition of assistance from without, supplied the pecuniary means. Accordingly, in March 1792, I sent in to Mr Pitt, then First Lord of the Treasury; and Mr Dundas, then Secretary of State, afterwards created Lord Melville, a proposal for the taking charge of convicts to the number of a thousand, according to the above-mentioned plan of construction and management upon the terms therein mentioned. This proposal, in the terms in which it was sent in, is here subjoined at the bottom of the page.*

"For giving the requisite powers to the executive authority, an Act of Parliament was necessary. Somehow or other the business lingered: nobody but the King and Prime Minister Pitt knew why. Even Lord Melville, I have some reason to think, remained in a state of ignorance; for, as I still remember, Mr Nepean, then Under-Secretary of State under Mr Dundas, showed me a short note from Mr Dundas to Mr Pitt reproaching him with the delay. What I also remember is, Mr Douglas, created then or afterwards Lord Glenbervie,

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* "Outline of a Plan for the Management of a Panopticon Penitentiary-House.

"I would undertake,—

"1st. To furnish the prisoners with a constant supply of wholesome food, to the extent of their desires; such privations excepted as may be inflicted in the way of punishment, or in case of necessity, as a spur to industry. A state of constant famine, and that under every modification of behaviour, as in some establishments, is what I cannot approve.

"2d. To keep them *clad* in a state of tightness and neatness superior to what is usual among the lower classes, or even in the improved prisons.

"3d. To keep them supplied with *beds* and bedding competent to their situation, and in a state of cleanliness, scarce anywhere conjoined with liberty.

"4th. To ensure to them a sufficient supply of artificial *warmth*, and *light*, whenever the season renders it necessary, and thereby preserve them from being obliged, as in other places, to desist from or relax in their work, as well as from suffering by the inclemency of the weather.

"5th. To keep constantly from them, in conformity to the practice so happily received, every kind of *strong* or spirituous *liquors*, unless where ordered in the way of medicine.

"6th. To provide them with *spiritual* and *medical* assistance constantly on the spot.

"7th. To make and maintain such a distribution of their time, as, deduction made of what is necessary for meals and repose, and on Sundays for devotion, shall fill up the whole measure of it with either productive labour or profitable *instruction*. To allow them the *sex horas somno*, the time Lord Coke allows to his student, and no more: not to leave them stewing or shivering in bed for sixteen hours out of the four-and-twenty, as in other improved prisons, to save candles.

"8th. To give them an *interest* in their work, by allowing them a share in the produce.

"9th. To convert the prison into a *school*, and by an extended application of the principle of the *Sunday* schools, to return its inhabitants into the world instructed, at least as well as in an ordinary school, in the common and most useful branches of vulgar learning. Extraordinary culture of extraordinary talents is not in this point of view worth mentioning: it would be my private amusement: in the account of public benefit,—I should take no credit for it.

"10th. To ensure to them the means of *livelihood* at the *expiration* of their terms; by giving, to every one of them who wanted it, a trade not requiring confidence on the part of the employer, and for the produce of which I could engage to furnish them a demand.

"11th. To lay for them the foundation-stone of a *provision* for old *age*, upon the plan of the Annuity Societies.

"12th. To pay a *penal sum* for every *escape*, with or without any default of mine, irresistible violence from without excepted.

"13th. To take upon me the *insurance* of their *lives* for an under premium, at a rate grounded on an average of the number of deaths among imprisoned criminals.

"14th. To take up my ordinary *residence* in the midst of them, and, in point of health, to share whatever might be their fate.

"15th. To present to the Court of King's Bench on a certain day of every Term, and afterwards print and publish at my own expense, a *Report*, exhibiting in detail, the state, not only *moral* and *medical*, but *economical*, of the Establishment; and then and there to make *answer* to all such *questions* as shall be put to me relative thereto, not only on the part of the Court or Officer of the Crown, but, by leave of the Court, on the part of any person whatsoever: questions, the answer to which might tend to subject me to conviction for any *capital* or other *crime* not excepted: treading under foot a maxim invented by the guilty for the benefit of the guilty, and from which none but the guilty ever derived any advantage.

"By neatness and cleanliness, by diversity of employment, by variety of contrivance, and above all, by that peculiarity of construction, which, without any unpleasant or hazardous vicinity, enables the whole establishment to be inspected almost at a view, it should be my study to render it a spectacle, such as persons of all classes would, in the way of amusement, be curious to partake of; and that not only on Sundays at the time of Divine service, but on ordinary days at meal times or times of work: providing thereby a system of inspection, universal, free, and gratuitous, the most effectual and permanent of all securities against abuse.

"To any one who should be apprehensive of seeing the condition of convicts made too desirable, I have only this answer—Art lies in meliorating man's lot: any bungler may make it worse. At any rate, what you take from severity you might add to duration.

"You see the use of a rent, and that a high one,

telling me of something which, on the occasion of an interview of his with Mr Pitt, he had said in the view of expediting it. At length came the day, in 1794, on which the act was passed, by which the doing the business by contract was authorized. And the spot at Battersea Rise, which, as above, had been destined to the reception of a penitentiary establishment on the plan of Sir William Blackstone and Mr Eden, was made to change its destiny, and was transferred to the intended penitentiary to be erected and managed upon my plan. The lingering continued: nobody knew why. Mr Pitt was shy in speaking of it. After three or four years' interval, the business came upon the carpet in another form. In the year 1797 was instituted the important and influential Finance Committee, — the first by which a report approaching to any such length as that which this Committee gave birth to was produced. Mr Abbot having distinguished himself at Christ Church College, Oxford, where, through the medium of Westminster School, he had succeeded to a studentship, had been received into favour by the Duke of Leeds of that day, and through his means had been sent by a rotten borough to the House of Commons, having been called to the Bar. He was nominated Chairman to that committee by Mr Pitt, at the recommendation of Mr Pepper Arden, afterwards made Lord Chief-Justice of the Common Pleas.

"Mr Abbot was related to me by marriage. When he was between five and six years old, his mother took for her second husband my father, and became his second wife. He and his elder brother were bred up together with my brother in the house which I now inhabit: they going at the same time for instruction to Westminster School. Between the ages of the Abbots there was an interval of two years,—my brother's was at a nearly equal distance between the two.

"In those days Mr Colquhoun, who, upon the institution of the Metropolitan Police Magistracy in the year 1792, was appointed one of the three police magistrates sitting at the Queen Square Westminster Office, had distinguished himself by his work on the Police. By the above-mentioned Finance Committee, he was brought before them with my proposal, the same by which the above-mentioned Act of Parliament had

payable by me, for a building not yet erected, but under my direction, *to be* erected.

"The interest of the public is completely mine. Every penny spent beyond necessity lays a tax upon me.

"I should require no new confidence. Give the convicts to me as they have been given to the hulks. Capital I should want little or none: the subsistence-money is capital: *that* you would have security for. The hulks are and must be impenetrable to the public eye. They need more than human goodness to ensure them from abuse.

"My prison is transparent: my management, no less so. The hulk-masters have, from year to year, to do as they please. A summons from the King's Bench might oust me the same day. I am no Nabob. I want no Jury. I would have none. The best friend to innocence I know of, is open and speedy justice.

"Of the dispositions I should bring with me to such an enterprise, or the motives that have urged me on to it, I shall say nothing.—You would inquire. What is public I will mention. The books I send will show, by their dates, that the subject had occupied a warm place in my thoughts, *four* years and *thirteen* years, before any personal views had mixed with it. Those views are but of yesterday. I began with planning, for A and B to execute—you will see I did.—Every page of the tract just printed (four years ago sent over in manuscript) will show it you: views rising upon views drew my affections after them: till at last I said to myself—Alas! where is the stranger who will enter as deeply as the contriver into the spirit of the contrivance?

"On my part, I should wish to stipulate—

"1. To have the office assured to the contractor *during good behaviour*: a phrase which, in the ordinary terms, means, for life; but which, on terms like the above, would mean simply what it says.

"2. The station of jailor is not, in common account, a very elevated one. The addition of contractor has not much tendency to raise it. Education, profession, connexions, occupations, and objects considered, I hope I should not be thought unreasonable in wishing to be preserved from being altogether confounded with those by whom those situations have been hitherto filled, and from finding myself a sufferer in estimation by having performed a public service. In this view, two expedients present themselves:—one is, the assurance of your assistance towards obtaining a Parliamentary sanction for the offer of standing examination in manner above-mentioned: the other is an eventual assurance, that, if after a fair trial the success of the undertaking, and the propriety of my conduct in it, should appear to have been fully ascertained, I shall be recommended to his Majesty for a mark of distinction not pecuniary, such as may testify that I have incurred no ultimate loss of honour by the service, and afford me some compensation for the intervening risk."

been procured, in his hand. How this happened I never knew,—whether it was of his own accord, or at the suggestion of the Prime Minister, or some other member of the Government. Among the members of that committee was Mr, now the Right Honourable Reginald Pole Carew. He had become my friend, and a warm partisan of the Panopticon system, through the medium of my brother, with whom he had become acquainted at Petersburg. The task of making a Report on the Panopticon plan was committed to his hands. The Report he drew up accordingly in favour of the plan was couched in such strong terms, that prudence suggested and produced the suppression of it. It went into other hands,—whose they were I do not at present recollect, if I ever knew—whether those of Mr Abbot, chairman of the entire committee, or any one else. Of a speech which, on that occasion, Mr Abbot made in the Committee, the substance was at the time reported to me. Referring to some of the most noted instances of cruelty that history records: 'We do not sit here,' said he, 'to try causes; but the cruelty of the cruelest of those cases was not comparable to that which this man has been suffering.' On this occasion the Lords of the Treasury were called upon to say whether or no they were prepared to go on with the plan; and if not, why not?—they answered, in cold terms, in the affirmative.

"At this time, however, or before, I was informed that the spot at Battersea Rise, which had formed the basis of the proposal made by me, and acceded to as above, could not be given to me. Two personages [were the parties interested,]—the then Archbishop of York, Dr Markham, in right of the see, the paramount proprietor; Earl Spencer, as lessee under a long lease from that same see. The Archbishop had been head-master of Westminster School during the five or six years which I had passed in that seminary: he submitted without reluctance: a civil letter which he wrote to me on that occasion, intimating his consent, is still in my possession. Lord Spencer demurred: he refused to cede the spot to me: but he gave me reason to hope that another part of his estate, called, I believe, Battersea Fields, might be conceded to me. His steward, he said, had informed him that the setting up of an institution of that sort, threatened to be detrimental to other parts of his vast property in that neighbourhood. The spot destined to the institution by Parliament, was an elevated one,—the highest part of it at the same height above the water, by which one boundary of it was bathed,—namely, about ninety-two feet,—as the top of the roof of Westminster Abbey. The spot which I had been led to expect in lieu of it, was also contiguous to the river, but was little, if anything, better than a marsh. By the noble earl I was kept from the cold, in hot water, for about a twelvemonth; at the end of which time I was informed that it never had been his intention that I should have either the one spot or the other: but that should he be compelled to give up part of his estate for the purpose, the choice between the two being at the same time allowed to him, it should be the low, and not the elevated ground.

"I was thereupon turned adrift, dislodged from this spot, and sent abroad in quest of another spot: like our first parents, 'the world before me,'—but if Providence was my guide, she proved for this time but a blind one. Many were the spots thought of, several visited, and two or three provisionally approved of. Of one of them, about seven or eight miles to the south or south-east of London, I remember nothing more at present than that it was elevated,—this property being originally recommended, and always wished for, and to such a degree stony as to be barren. Another is that which is called 'Hanging Wood,'—an elevated and beautiful spot on this side of Woolwich.

"By what means, in these several cases, the door, after having been opened, was finally shut against me, is not worth recollecting: at length an opportunity that seemed favourable presented itself; the Earl of Salisbury, of that day, happened to be in want of a sum in ready money,—he had a freehold estate at Millbank,—it had for one of its bound-

aries a line of about half-a-mile in length, and washed all the way by the Thames.

"At length the time was come for putting a final extinguisher upon all hopes. The Millbank estate was now in my possession, all but the one piece of garden-ground, for the buying out of the lease of which £1000 was necessary. The mornings, as usual, were passed in the Treasury Chambers, either in a waiting-room,—not unfrequently the board-room itself,—or the passages. I had become familiar with three of the chief clerks: one day said one of them to me, 'Well, now you will not have long to wait,—the warrant for the £1000 is gone to the king,—his majesty is a man of business,—seldom does a document wait more than twenty-four hours for his signature.' The next day came, and the next to that, and so on for three weeks,—a day or two more or less,—all the while the same familiarity and favour in all faces, but the surprise on both parts continually on the increase. On the day that followed, on repairing to the usual haunt, I found everything converted into ice. Upon my putting some question or other, 'Mr Bentham,' said the clerk to whom I addressed myself, 'you must be sensible that this is a sort of information that is never given, and as seldom asked for.' If these were not the very words, this, at any rate, was the very substance. Here ended all hopes of setting up the prison institution. Still, however, the Millbank estate remained in my hands, part and parcel in the occupation of tenants holding of me at will,—other part, at first in the hands out of which it should have been purchased, and at length the lease having expired, in the occupation of a tenant at will, as before. Not only the land itself was thus in my possession, but the deeds by which it had been conveyed to me. Until those deeds could be got out of my hands, and transferred to certain others, it was not thought advisable to dispose of the land in any other manner. Various were the stratagems employed for the acquisition of these same documents. The recital would be not only instructive but amusing, could time be spared for it.

"I come now to another campaign of the war.

"In 1797, Pitt the First, then Prime Minister, brought in his Poor Bill.

"Universal was the sensation produced by a measure so important and extensive. It had for its leading idea and groundwork a plan that had been proposed by Mr Ruggles, a country gentleman of Essex.

"I took in hand this bill. I dissected it. I proposed a succedaneum to it: this succedaneum I couched in the form of letters, addressed to Arthur Young, for proposed insertion into the Annals of Agriculture, which had been brought into existence a short time before. They appeared, accordingly, in four successive numbers, in the form of letters, addressed to the editor of these same Annals:* the matter of them is that which forms the matter of the body of Pauper Management.†

"It may be seen to contain a complete system of provision for the helpless and indigent portion of the community of England and Wales included: Local field the same as that of Minister Pitt's above-mentioned Poor Bill. *Mutatis mutandis* plan of architecture the same as that of Panopticon plan—devised for the lodgement, maintenance, and employment of prisoners. Note,—that it was for persons of the unoffending class that this new plan of architure was originally devised. Principle of universal and constant inspectability the same in both cases: inspectability of the inspectors by the eye of the public opinion tribunal the same in both cases: but actual subjection to inspection in no cases except those in which it was required by the different purposes, or objects in view, of the different, or, in some respects, coincident institutions.

"Arthur Young was in a state of rapture: he presented me with 250 copies of those Nos. of his Annals in which the matter was contained. By me they were distributed, at different

* See these, and likewise the author's criticism on Pitt's Bill, in the Works, vol. viii. p. 361 *et seq.*

† An unpublished MS.

times, among such persons in whose hands they presented to my conception a promise of being of use: whether any of the copies were ever on sale, is more than I can remember: among those presented, were one to Minister Pitt, the other to Senior Secretary of State, George—afterwards Sir George Rose, and one I take for granted, but from inference rather than remembrance, to Secretary Dundas.

"All this while Panopticon for Prison management remained upon the carpet. One day I received from Mr Rose an invitation to call upon him—not at his office, but at his house. Days are, on this occasion, of more importance than months, or even years. Notwithstanding the unequivocal and repeated tokens of approbation that had been given to the Panopticon plan by the Planner-General of all the arrangements of the Prime Minister, my intercourse with him had as yet been no otherwise than at arm's length. In demeanour, master and man, *proportions gardées*, were alike cold and haughty: the man was passionate, rough, and coarse. Imagine my astonishment who can, when, after giving me to understand that those on whom the issue depended had read the work,* and read it with approbation, he concluded with saying, 'Come and dine with me here one day the beginning of next week,—Mr Pitt and Mr Dundas will meet you,—and we will settle about this plan of yours.' The day of the week on which this announcement was made was Friday: I was in the seventh heaven. The Monday passed away—the Tuesday in like manner—the Wednesday eke also. There ended the beginning of the week: on the Thursday I heard, as it were, by accident, by whose mouth I did not long remember, that on the Wednesday, instead of myself, Mr Ruggles had been the guest: but that the entertainment had closed with mutual dissatisfaction. From the above-mentioned seventh heaven this intelligence cast me down, if not to the bottom of the abyss of despair, at any rate but a little distance from it—a bush of thorns having caught hold of the skirts of my clothing and saved me from absolute destruction.

"Before this time I had received intimation from Mr Rose, that strong as had been the approbation bestowed upon my plan by all those to whose department the business belonged, other persons there were by whom it had been viewed with an eye not altogether favourable: who these persons were was not mentioned, nor any description given of them less mysterious than this. What the power was that thus stood in the way was more than at that time I had any suspicion of. There was an end to my situation of Sub-Regulus of the Poor; but my claim to be Sub-Regulus of the imprisoned part of the population still lingered.

"To contract-management was to be substituted trust-management,—in other words, the trustees being constituted authorities, nominees of other superior constituted authorities, management by patronage; or, in still ulterior words, to management by functionaries in whose instance interest coincided with duty—trustees whose interest was at daggers-drawn with duty.

"That everything might be done in due, that is to say, in accustomed form, a committee of Honourable House was duly organized,—number of members twenty-one, appropriately packed for the purpose. On this occasion what other persons were examined I cannot recollect,—the votes of the time would of course show. I of course was of the number.

"This formality being gone through, an act was passed in 1811.

"Never does the current of my thoughts alight upon the Panopticon and its fate, but my heart sinks within me: upon the Panopticon in both its branches,—the prisoner branch and the pauper branch: upon what they are now, and what they ought to have been, and would have been, had any other king than this same George the Third been in those days on the throne. According to the calculations which had then been, with close attention, made, the pecuniary value of a child at its birth,—that value which at present is not merely equal 0, but equal to an oppressively large nega-

* Viz., on Pauper Management.

tive quantity, would, under that system of maintenance and education which I had prepared for it, expense of conveyance to the distant site allowed for, have been a positive quantity to no inconsiderable amount.

"So much for unoffending indigence. As to the criminally-offending part of population, no tamer of elephants had a better grounded anticipation of the success of his management than I had of mine, as applied to the offending school of my scholars. Learned and Right Honourable judges I would not then have undertaken,—I would not now undertake to tame: learned gentlemen in full practice I would not have undertaken to tame: noble lords I would not have undertaken to tame: honourable gentlemen I would not have undertaken to tame. As to learned judges under the existing system, I have shown to demonstration, nor has that demonstration ever been contested, nor will it ever be contested, that (not to speak of malevolence and benevolence) the most maleficent of the men whom they consign to the gallows is, in comparison with those by whom this disposition is made of them, not maleficent, but beneficent.

"Various were my adventures when, year after year, I was sent or encouraged to go upon a place [illegible]—a land-hunting—hunting after *terra firma*, which I so oftentimes found slippery as ice,—slipping through my fingers: analogous in some sort was my unhappy chase to that of Fenelon's Telemachus when rambling in quest of his father Ulysses: as often as he thought himself on the point of receiving the paternal embrace, consigned by some delusion or other to final disappointment. But how sadly different the catastrophe,—how opposite in my case to what is called poetical justice!

"A little before or after the presentation of my convict's Panopticon plan to Pitt the second in London, I had transmitted it to Ireland, to Sir John Parnell, then Chancellor of the Exchequer, father of the present Sir Henry: favourable in no small degree was the acceptance given to it: out of it grew the two volumes entitled 'Panopticon,' &c., which are still before the public; between myself and that worthy man and honest functionary, it produced a correspondence, and in the course of a visit of his to London, a personal intercourse and interchange of convivial hospitality. At one time came to me from the Baronet an invitation to Dublin, for the purpose of superintending the building and organizing the institution there. In this summons was comprised an invitation to take, for the time that my stay in that metropolis continued, his house for my home. All this notwithstanding, somehow or other, I found that, after that invitation, I had sent to Dublin to the appointed office my MSS. for impression, the impression, notwithstanding my instances, stood still; and hence it was that it was continued at my own expense, and put into the form in which it is now visible.

"At this time Lord Westmoreland was Lord-Lieutenant of Ireland: an architectural plan of the prison contemplated for Dublin was put by the Chancellor of the Exchequer into the hand of his Excellency. 'They will all get out,' were the very words of the answer, as reported to me. Nor was the observation altogether groundless; for of those safeguards, which are common to all prisons, no graphical representation was, I believe, contained: nor even, for want of room, the plan of external fortification and circumvallation. Be this as it may, the laconicalness of the observation, in conjunction with the tone and deportment which accompanied it, were such as sufficed to show that attempts at explanation would have been fruitless—would have been presented to averted head, closed eyelids, and obdurated ears. Not altogether favourable to the superior was the observation hereupon made to me by the subordinate functionary, and the character in few words given of him: but the maxim *de mortuis nil nisi bonum* has its counterpart in the shorter maxim *de vivis ne maledic*,—at any rate when the situation of the *vivi* is in so high a degree elevated.

"Many years after, a similarly decisive rejection was put upon the plan,—that is to say, the architectural part of it—by a Home Secretary in London.

Divers models of different sizes, for the purpose of conveying an impression of the whole together, in particular parts of it, had been put together by my brother, and exhibited in the house from which this is dated, in the room which now is employed as a library.* By appointment enter the Duke of Portland, with two of his Grace's sons: scarce had he bestowed a glance upon each of the models, when the observation came from him—'Not light enough:' such was the substance of the observation, not more than twice as many the words, whatever they were:—nor was this condemnation passed by his Grace in London more groundless than that passed so many years before in Dublin by his Excellency: true it is, that the edifice being circularly polygonal, glass was the sole material of which the boundary all round was composed, with the exception of the aggregate of the iron-bars and leadings necessary for the imbeddings of the panes of glass: and as to the want of light in the Inspector's lodge in the centre, in the first place, what his duty required was, not to be seen, but only to see, and the partitions, ten or eleven in number, being all of them in the direction of the radii of the circumscribing circle, opposed next to no obstruction to the entrance of the light, even to that station in which light was so little necessary, namely, the above-mentioned central lodge. In the history written by, I-forget-what illustrious Frenchman, under the unpretending title of Fairy Tales, one of the occurrences is the imprisonment of the heroine in a palace, the boundaries of which were composed throughout of one solid mass of glass. Of this archetype, the Panopticon was as near a similitude as the limited power of human art could admit of.

"In form, the edifice had its similitude and its really existing archetype in the once celebrated place of entertainment designated by the appellation of Ranelagh House, or, for shortness, Ranelagh—having originally been built for, and inhabited by General Jones, created by William the Third, Earl of Ranelagh, in Ireland: scene of many an amorous intrigue; and for that purpose indicated as destined by the Viscountess and her learned gallant in one of the prints of Hogarth's *Marriage à-la-mode*.† Another and much better-fated similitude, for it still exists and flourishes, is the capital part of the splendid conservatory in the nursery-ground of Mr Loddiges, in the neighbourhood of Hackney.

"All this is true: but not less true it is, that in the room in which the models in question were, dimensions of the boundary fronting the light 25 feet, in it number of windows not more than three, nor those very large ones: nor had any particular solicitude been employed about the removal of little obstructions to the entrance of the light: nor about the choice of the day appointed for the visitation of the illustrious guest at the abode of the humble host: nor had Phœbus vouchsafed at that moment to illuminate the receptacle by his rays.

"Of this condemnatory visit, such as it was, I remember the transmitting information by a note in writing to my friend Mr Wilberforce, in those days one of the most distinguished, zealous, and influential patrons of the measure: an answer of his is still in my possession somewhere; in terms altogether remarkable, if not unprecedented on the part of my pious and benevolent friend, he gives vent to the indignation which that occurrence had awakened in a bosom so unaccustomed to sensations of this nature."

Bentham was a frequent visiter at the table of Mr Wilberforce, where he met with Lord Eldon then Attorney-general, Lord Stowell, Lord Harrowby, and many other leading political men. Bentham remembered, and often repeated, a strong phrase of Wilberforce: "I will never forsake you; but the Minister is not with you." There had been a misunderstanding between Pitt

* See allusions to this, in the Correspondence in chap. x. of the Memoirs.

† See an interesting account of Ranelaghs, in Dumont's "Souvenirs sur Mirabeau."

and Wilberforce, not such as to stop all communication, for they availed themselves of Lord Carrington's friendship for both to preserve through him a certain intercourse. Bentham thought that Pitt was not unfavourable to his scheme, for, on more than one occasion, he said that Bentham had been greatly injured and cruelly treated by the procrastination; but Pitt communicated to nobody, not even to Dundas, the real cause of the delays. Wilberforce was disposed to blame Pitt severely—but without sufficient reason. Wilberforce thought Pitt's opinions on religious matters lax and immoral; and to that laxity he was habitually disposed to attribute whatever was amiss.

The Government, however, was so much compromised by its acts and its promises, that a Parliamentary Committee, Mr Holford being Chairman, was nominated with the consent of the Ministers, for the purpose, as Bentham was afterwards compelled to believe, of crushing the Panopticon plan of management, and setting up the Patronage plan in lieu of it. This was in 1811,—after nineteen years of waiting.

It was only, however, on the progress of the inquiry, that Bentham saw evidence of the concert of a majority to defeat his object; for his supposition had been, that the Committee was nominated for the purpose of giving effect to it. Of Wilberforce, Bentham said:—"From the first to last, his wishes for the melioration, temporal and spiritual, as well as comfort of these peccant members of society, had been sincere: his labours towards the effectuation of those objects correspondent: so long as my share in the promised institution for that purpose afforded a ray of hope, he had stood by me. At what precise time he joined himself to that Baal-peor, it fell not in my way to know. At the time at which these symptoms of tergiversation presented themselves to my observation, he cannot but have understood so much of the nature of the obstacle to the maintenance of the public faith that had been pledged to me, as to see that it was invincible. That which was best, being no longer possible, that which to him seemed next best, was of course that which it was his duty to transfer his endeavours to the accomplishment of.

"By the part he took in the business, my condition was not in any degree or way deteriorated: the change, if any was made in it, was for the better. Of the design he was engaged in, the tendency, and one object at least, was to preserve, as far as might be, a calm in my mind, and prevent any such ebullition as would be apt to produce feelings of an inimical nature towards me in the minds of those on whom the compensation due to me for my sufferings might depend: in whatsoever instance any direct violation of the law of veracity had been committed by other persons, he had no share in it. True it is, he had given me reason to believe, that the course it was intended to be taken in relation to me and my institution by these same omnipotent persons, was not known to him; and that it was in a more or less considerable degree unknown to him, is what I see nothing to prevent me from being persuaded of."

The sum which Bentham received as compensation for the non-fulfilment of the contracts with him for Panopticon, was £23,000. The amount was paid him in 1813.*

The Panopticon plan had been in discussion for more than a quarter of a century. On the 9th May, 1794, leave was given to the Chancellor of the Exchequer Mr Dundas, and to the Attorney and Solicitor General, to bring in a Bill for the erection of a Penitentiary House, &c. On that occasion Mr Dundas said:—"When first the plan was mentioned to him, (Mr Dundas,) and when he was told that many of those convicts who were transported to Botany Bay for life might be usefully employed in

* The 52 Geo. III. c. 144, is entitled, "An Act for the erection of a Penitentiary House for the Confinement of Offenders convicted within the City of London and County of Middlesex, and for making compensation to Jeremy Bentham, Esquire, for the non-performance of an agreement between the said Jeremy Bentham and the saids Commissioners of his Majesty's Treasury, respecting the custody and maintenance of criminals."

manufactures in this country, he owned he thought the scheme a visionary one; but on more closely examining the mode proposed by a gentleman, whose manufactory was not far from that House, he found that the plan was not only practicable, but also very easy to be carried into effect—viz., by means of a machine which enabled every man to be a manufacturer, without the assistance of any skill whatever. It might be said to be a machine that gave the power of sight without eyes, and of feeling without hands: merely moving the machine answered all the purposes of completing the manufacture. A great number of persons, he was persuaded, might be employed here, where their labour would be very useful to the public: and he believed, that with very little additional expense, the produce of the labour would equal the expense of carrying on the work."

In remarking upon some observations from another speaker, he said—"The plan would not only be lucrative to the persons employed; but, he was extremely well satisfied, would defray its own expense."

Instead of the Panopticon, "the unexampled inspectable prison" of Bentham,—the Penitentiary of Millbank was erected,—not to be entered without the order of a Secretary of State; and while it had none of the advantages of the Panopticon, it cost more than ten times the amount the Panopticon would have cost.

Speaking of Panopticon, Bentham said to me in 1822:—"Among my undivulged instruments of amusement and good morals for the prisoners in Panopticon one was singing in chorus: for audience, volunteer visiters in the Central Lodge. Tune 1. Malbrook, *Coda* to the song, 'Our worthy Governor.' Stanza, reciting in verse all the good things he stood *engaged* to do for them, and stating them as *done*. This, in so far as done, would be just eulogy; in so far as left undone, merited satire and accusation before all the world. Tune 2. Another pretty melody, and almost as simple—

Drink and set your hearts at rest:
Of a bad bargain make the best.

Words the same, except, that instead of *drink*, in stanza 1, *work;* stanza 2, *learn;* in stanza 3, *sing.*"

I have not been willing to interrupt the narrative by the introduction of the correspondence, which, in fact, would of itself fill large volumes; but as it appears to me that many of the letters have an interest more than temporary, both from their style as compositions and the intrinsic value of their contents, I have selected some of them, partly in the character of "probative documents," or "pieces justificatives," as the French denominate them; and partly as illustrative of the history of the times and of the character of Bentham.

BENTHAM TO EARL SPENCER.

(Extracts.)

"*August* 16, 1793.

"No doubt but that the effect of such an alienation upon the value of the rest of your lordship's property in that neighbourhood, is an object that has as strong a claim to consideration, as the amount of the price obtainable for that particular part; nor should I be at all surprised, if that effect should at first blush be apprehended to be prejudicial. For my own part, I have no such apprehensions: nor will your lordship, I hope, when the particulars of the plan, as far as this question is concerned, have been more fully laid before you. The persons of the prisoners will be altogether out of sight, not only of any house at present existing, but of any house that can ever be built upon any other part of your lordship's estate. The whole thousand will be enclosed in a single *building* of 140 feet diameter: that building, so far from being an eyesore, will, I hope, I may venture to say, be an ornament to the neighbourhood; not less than the rotunda at Ranelagh is, to which it will have a considerable degree of resemblance.

"It will be completely enclosed by walls, with guard-houses on the outside, occupied by guards, who by the height of their situation will be enabled to observe, not only what is doing within, but what is doing without, to a consid-

erable distance: who of course can be sent to, or even called to, at a much greater distance than the situation of the ground and other objects may, in every instance, admit of their commanding with their eye: and who of course will have orders to lend their aid at all times, and during the night time more especially, to put a stop to any misdemeanour that may be attempted within the circle of their cognizance, and to apprehend the authors: I say, during the *night time;* for the plan of management requires the walling to be well lighted all round, without as well as within. The neighbourhood, therefore, being watched and guarded, and even in some degree lighted, at the expense of the establishment, will, instead of suffering in point of security, be greatly benefited. On the other side of each of the two roads which bound the premises on the east and on the west, the land, I observe, is occupied by gardeners, whose ground, as such, being unenclosed by walls, must at present be in a considerable degree exposed to depredations. These grounds would receive an immediate benefit by the protection afforded them by the watch-houses.

"Though I am not at present in the Commission of the Peace, yet having been bred to the bar, and having succeeded about a year and a half ago to the estate of my late father, who was in the Commission for two counties, I may, without much presumption, suppose it not unlikely that, if I thought fit (and in such a situation I should think fit) to have my name inserted for Surrey, it would not be rejected; and in that case, and in that situation, I may leave it to your lordship to judge whether the neighbourhood would be likely to find me negligent of their service.

"Before I quit the subject of security, give me leave to assure your lordship, that any further measures, which might suggest themselves to your lordship in this view, would not find me backward in adopting them; nor is it a small expense that would prevent me.

"So much with regard to *security*. ——Is the establishment likely to present anything disgustful or unpleasant to the neighbourhood?—Your lordship may soon judge.—Adopting, in their fullest energy, the ideas of Howard with regard to the importance of publicity, it is part of my plan, as your lordship may have observed, and indeed the main pillar of it, to give the establishment such a face as may attract to it persons of all classes, but particularly of the superior ranks of life, whose inspection, as such, would afford the most powerful check to mismanagement: on Sunday, in particular, it would be my endeavour to render it, by means of the chapel which is enclosed in the centre of the building, a sort of place of public entertainment suitable to the day, like that afforded by the Magdalen, and the Asylum. Your lordship will judge how far it would be possible to carry on any such plan, if the establishment, or anything belonging to it, were ever suffered to be in the smallest particular an object of disgust.

"It is in that view, as well as in the view of making the residence to which I have doomed myself the more comfortable, that I should make a point of giving to the place, considered at large, what embellishment it may be susceptible of: nor does it appear to me that it would be a departure from the true spirit of the institution, if, while with reference to the class of persons for whose correction it is designed, it is seen to have the properties of a prison, and an establishment for forced labour—to the neighbourhood, and to the passengers it should wear the aspect of a *Ferme ornée.*

"Allow me here to represent to your lordship how much reason the neighbourhood will have to rejoice at the change of plan which, in the room of three men of rank, subject to no control but what has reference to the prosperity of the establishment itself, and they not resident, substitutes a single individual like myself. By an article which I took care to insert, I am subjected, as your lordship may have observed, to be removed or censured by the Court of King's Bench in a most summary way, at a minute's warning: and by the terms of that article, should I ever recede from any of my engagements, whether as to those points in which the neighbourhood as

such, would be interested, or any other, there is not that individual so obscure, who might not make his appearance in court, in person, and without any expense, and, face to face, call me to account for the failure.

"But along with the good company (it may be supposed) may come *bad:* and will come, were it only to visit their friends in *durance.*——No such thing, my lord. See them they may, indeed, but not hold the smallest converse with them, unless I please: such is the construction of the building. No man who does not come decently clad, will be admitted: every man will be liable to be searched, were it only that he may not conceal any instruments of hostility or escape: every man will be liable to be questioned as well as searched, if I or mine see cause: nor can any man get in at all, without presenting himself to his examiners. To the officers of the police the establishment will be open of course, and thither they will come at times not foreknown, if there be any prospect of prey, while to a malefactor who is once within my gates, escape will be impossible. Under these circumstances will a man, whose conscience accuses him of a crime, come and plunge into the net?—Impossible. He has everything to fear, he has nothing to gain by it.——In Newgate and other prisons, upon the common footing, containing criminals as yet untried, men of similar characters cannot be excluded, because, before trial, no man may be precluded from concerting his defence with whomsoever may present themselves in the character of his friends: neither can they be subjected to examination in the way of questioning, because such examination would be inconsistent with the freedom of admission which is deemed essential to that purpose. No, my lord—the last place in which a felon at large will think of trusting himself, of his own accord, will be my Penitentiary House.

"Allow me here to mention a circumstance which, in this point of view, may perhaps appear to your lordship tolerably conclusive. If, setting aside the contriver of the plan, one man more than another should be supposed to have a just view of its probable effects in this as well as other particulars, it should be Mr Nepean, who has had so much occasion to consider it. T'other day in conversation—'*I want a little bit of ground,*' says he, '*in the country, within reach of London, to build a house upon:—do you happen to know of any such thing?*'—'*Yes,*' says I, '*I do: there is a board up, advertising ground to be let on a building lease, close to the premises, just on the other side of one of the roads that bounds them.*'—'*Oh—is there?*' says he, '*then I will go and look at it: it's just the spot for me: its vicinity to the Panopticon would be a recommendation to me.*'

"No wonder, indeed, if people enough should be found, who, hearing that felons were to come *among* them, as report might say, hearing that it is no great distance, and knowing nothing as yet of those circumstances of the plan which would render that vicinity an advantage instead of a prejudice, no wonder they should be more or less alarmed at it: nor, considering the differences of men's tempers and casts of character, is it possible to say that there should be nobody who, even after hearing everything that could be urged to dispel such apprehensions, might remain dissatisfied. But in estimating the effects of the measure upon the value of your lordship's estate, the true question is, as your lordship's discernment will, I make no doubt, acknowledge, not what may be the notions of a few individuals for a moment, and before the true nature and effects of it can have been known; but what will be the sentiments and feelings of the public in general, after those effects have been indicated by experience. In proportion, therefore, as I may have succeeded in dispelling any apprehensions that may have presented themselves to your lordship at a first glance, previous to a knowledge of the circumstances, in that proportion I shall have succeeded in rendering your lordship indifferent to what may be the apprehensions of the neighbourhood, or anybody else, under the same disadvantage. Will any such apprehensions, supposing them formed, have any *duration?*—No, my lord—so far from

flying from the spot, builders will flock to it, were it only for the benefit of the protection afforded by the guard.

"But let me admit, for argument's sake, (and it is only for argument's sake,) that the neighbourhood, and even, in particular, the *value* of your lordship's estate would ultimately be rather prejudiced than served by the establishment —will your lordship's candour allow me to inquire whether, under the particular circumstances of the case, that would be a just motive for opposition, or present, to a person in your lordship's situation, a prospect of opposing with success?

"The materials for judging have, in some particulars, not presented themselves yet to your lordship's view: allow me to perform that office.

"Publicity, as I have already observed, is of the very essence of the institution: it is with a special care to that advantage, that the spot in question was made choice of. And by whom made choice of? Not by the supervisors only, but by the most respectable and competent body that could be devised: a body composed of the twelve Judges, with the addition of the Lord Chancellor, the Speaker, and the first Magistrate of the metropolis: of these fifteen, fourteen, (as Mr Bowdler, one of the appointed supervisors, informed me,) or at least thirteen, actually signed the instrument of approbation: and if it went without the signature of the other, or the two others, it was—not because he or they disapproved of it, but because, after so great a majority, the person or persons in question not being on the spot, it was thought not worth while to delay the measure for the sake of adding their signature to the rest.

"Another circumstance may, in this view, be very material for your lordship's consideration. Before this place occurred, another (not to mention two that are not to the present purpose) had been made choice of: viz. a spot much nearer Wandsworth, and so near, that its vicinity, and the disgust that the inhabitants conceived on that account, (your lordship will remember the plan then in contemplation was one which presented none of the antidotes above stated,) was made a ground of objection. This ground of objection was accepted as conclusive by the very tribunal I am speaking of: such was its becoming tenderness for the feelings of individuals: and by that very same high and considerate tribunal was the choice of the very spot now in question confirmed, without a dissenting voice, as being free from the objection which had put a negative upon the other. The rejection itself appears by the report which I enclose: the reason of it as above stated, (a matter which must be known in the neighbourhood, I mean in Wandsworth,) I had from the supervisors, and the difference is indeed apparent on the face of the present spot. For, my lord, what are the buildings that (except in the way of distant prospect as London may be) are in sight of it? Two or three cottages of no value, and a public house that would make a fortune by the choice. Did your lordship's agents (I should have said those of the late earl) make any objection then? I never heard they did: but if they did, they were overruled. The choice, your lordship will have the goodness to observe, is not *now* to be made: it is a *res acta:* in succeeding to the estate, your lordship found it with this obligation lying upon it. The only questions there can be, (I rely upon your lordship's goodness for forgiveness, if zeal has betrayed me into error,) the only questions, at least, I can see, are that which regards the *time*, and that which regards the *price:* and even this latter was no question, until, out of respect for justice, it was made so by me.

"Your lordship, then, will have the goodness to consider how the case stands, with regard to the place in question. The Penitentiary establishment is determined on by Parliament. The spot for the reception of it, it is determined, shall be a spot in which *vicinity* to the *metropolis*, and to the *river*, should be accompanied with that degree of elevation which is deemed essential to the health of so numerous an assemblage of persons, so subjected to confinement: this decision is given, with respect to the

sort of place, by a subsequent committee of the House of Commons, with respect to the *individual* place. By that same committee, (see the Report of 1784,) in confirmation to that given by the twelve Judges, added to the Lord Chancellor, the Speaker, and the first Magistrate of the metropolis, the measure had already been sanctioned, and the price of the place assessed, under the act of Parliament by the verdict of a jury. An improvement is afterwards devised in this system,—an improvement deemed such in spite of predilection and every personal motive,—by the very persons (for such is their generosity and public spirit) whom it throws out of office. It is deemed such, and as such adopted and patronized by an administration, with whom the author had not the honour of the most distant previous connexion, or any prospect of connexion, whatsoever. This improvement cannot, any more than the original plan, do without a spot to rest upon. The building to be erected, in conformity to this improvement, must then be set down in some neighbourhood, possessed of the above-mentioned advantages. What then is to be done? Shall the establishment be turned off, on account of this improvement, from a more eligible to a less eligible neighbourhood? or, for want of a neighbourhood that might like to receive it, is it to be supposed that an establishment of such public importance will be set aside altogether?

"A prison cannot exist, but it must exist in some neighbourhood: it cannot exist in a town, but it must exist in a *crowded* neighbourhood,—a neighbourhood beyond comparison more exposed to the objection supposed, than the place in question can be:—is there, then, no such thing as a prison to be built anywhere?

"How was it with regard to the immense House of Correction at Clerkenwell? Is there anything like a reason for apprehending that such a prison as the one proposed, can be more incommodious to the distant inhabitants of Battersea and its neighbourhood, than the actually existing one must be to the inhabitants of the *contiguous* House of Correction in the *crowded* neighbourhood of Clerkenwell?

"No man, give me leave to say, my lord, can be more sensible than I am, to the abuses to which the maxim, *that private interest should give way to public*, is liable, and is but too frequently made subservient—as if the public were made up of anything but individuals: no man who would be more resolutely bent against making himself an instrument of such abuse in any case, and, above all things, in a case where an interest of his own was so visibly concerned: it is a subject I have made a study of, and considered under all its faces. But in the present instance *would* it be any *real injury* to any individual?—would there be so much as any real *damage?* Is the damage, if any, such as can be set in comparison with the public benefit? Does it exist in any assignable shape? Is it of such a nature as to have any claim to indemnification?—Indemnification then it will have.

"With regard to your lordship's suspicion, that a part of the land in question may prove to be upon lease, I rather think your lordship will find the fact to be otherwise: (not that it is at all material, as your lordship will see presently.) In the course of a visit to the spot, I happened, a short time ago, by accident, and without my seeking, to fall into conversation upon the subject of the Penitentiary plan, with one of your lordship's tenants; a gardener of the name of *Glenie*, who did not know the relation I bore to it. Beginning the conversation, (for he avowed a suspicion of me on that score,) he mentioned it as a remarkable circumstance, that no part of the land, either *is now upon lease*, or has been for these two hundred years. His own part he spoke of as being forty acres: (being the upper part on which the building would be placed,) and he applied the same observation to the remainder in equal quantity, (which agreed exactly with the quantity detailed in the inquest of the jury.) With respect to his own part, I think he can scarcely have been otherwise than correct, in regard to a circumstance in which he was so highly interested; and that is

the only part for which I should have occasion, before Parliament had time to do its office.

"I set out with observing, that *lease or no lease* is immaterial to the present purpose: and so your lordship will find it to be. Why? Because the actual immediate possession is equally out of your lordship's power as landlord to grant, whether there be or be not a lease, as I well knew: *that* must depend at any rate upon the occupying tenants. Without their consent, to whom I well knew I must have to apply for it after all, that of the landlord, would, in point of law, be unavailing: since a tenant, styled a *tenant at will*, is not so far *at will*, as that he can be removed, or his exclusive possession infringed upon, without a certain interval of notice: and with the consent of the tenant on the other hand, a man might have the use he wanted, were the landlord ever so averse. So far, then, as *immediate* possession is concerned, it was the respect due to your lordship, and to what appeared to me to be the rules of propriety and decorum, and not any necessity in point of law, that was the motive of my humble application to your lordship, to whose decision in that particular, the same considerations will command my submission: and your lordship will be pleased accordingly to recollect, that in the very sentence in which the request was made, I added, that it was not any formal act that I stood in need of troubling your lordship with, for that the purpose would be equally answered by a simple acquiescence.

"To satisfy your lordship of the concurrence spoken of on the part of the gentlemen who had been appointed supervisors, I take the liberty of enclosing a letter or two just returned by the Archbishop of York, together with one I happened to have by me, expressive of the spontaneous support of a respectable and learned friend, an old connexion of the archbishop's, and who may not improbably fall within the sphere of your lordship's acquaintance. I hope the good archbishop will pardon the liberty I may perhaps take of adding his own kind letter to the rest.

"To show your lordship the state of the business in respect of the land in question, I also send a Report of a Committee of the House of Commons of the year 1784. The estimates it contains of the expense, your lordship will be pleased to observe, are for 900 prisoners only, and my house is to contain 1000. Actual expense I believe was scarce ever known not to exceed the *estimated*, especially in public works; and neither that of *furnishing*, nor that of stocking, is included. Your lordship will have the goodness to return the Report, as it is not mine but Sir Charles Bunbury's; (upon second thoughts I fear it must be a copy for the present, the printed original being in Mr Nepean's office, from which things are not to be got in a hurry.) Give me leave to add, that though this is the last *public* testimony of the Penitentiary system's having been kept in mind, (and, consequently, the land that had been appropriated to it,) yet it never actually *has* been out of the mind of Administration. It was not more than a twelvemonth before my plan in its original shape had been sent to Mr Pitt that the late Mr Blackburn, the architect, had an audience of him on that subject, as well as of the then Lord Chancellor, as Blackburn himself told me."

BENTHAM TO HENRY DUNDAS.

"*Q. S. P., June* 7, 1794.

"SIR,—A measure of Administration having been deserted by Administration, was carried by *me* through the House of Commons. The fact is not more ridiculous than true. Mr Long brought Mr Long: chance brought me two private friends. An opposition of two was thus subdued after a hard struggle. In the Lords, after lying by till the third reading, Lord Spencer obtains an order for the printing of the Bill: in other words, opposes it: opposes it, after having held such language, (to yourself, Sir, I presume, for one,) as, according to Mr Long, to whose frankness I am beholden for the communication, rendered it impossible for him to oppose it. When thus opposed, since opposed it is to be, in the Lords, how, then, is it to be

defended?—as it was in the Commons? *Time* at least has not been wanting for getting it through, or for exposing it to disasters, since I had the honour of an audience. The week spoken of, Sir, on that occasion, has been already doubled. What other helps it was destined to receive, remain as yet to be discovered. A secretary of the Treasury neither knew what had been done, nor what was to be done: an Under-secretary of State asked *me*. Indeed, Sir, I do not know. One thing I do know: that I am no match for Lord Spencer anywhere; especially in his own house: and unless some such person as a Secretary of State, or a First Lord of the Treasury, should happen to know of some means whereby a Treasury Bill, after having passed the Commons, may be supported against a groundless opposition in the Lords, there is an end of my hopes, as well as of other things better glanced at than expressed. I have the honour to be," &c.

BENTHAM TO WILLIAM WILBERFORCE.

"MY DEAR SIR,—Enclosed is the paper which you gave me leave to trouble you with. Observe the dates. It was after receiving a copy of it, together with a Memorial addressed to the Treasury Board, which he desired to have *pro forma*, that Mr Dundas, upon my meeting him at the outside-door of his office at the Horse Guards, said to me these words,—'Mr Bentham, I have just been saying to Mr Long, what I had before said to Mr Long and to Mr Pitt, *that it is impossible to change the land*.' Mr Dundas was addressed at that time in consequence of Mr Pitt's having signified his intention of resting his decision (as Mr Long told me) on the judgment of Mr Dundas, who, he observed, had the circumstances more on his mind than he (Mr P.) could have. Afterwards, Mr Long sent for me, and notified to me in form, that Mr Pitt had fixed upon the land in question as the proper spot,—and an instrument for the purpose was accordingly, by Mr Long's direction, drawn by me, approved and signed by Mr Long,—settled by the Attorney-general, and engrossed by Mr White, and when I heard last of it, about six weeks ago, was lying (so Mr Long told me) (together with the draught of the contract perused and settled by the Attorney and Solicitor General, and ready for engrossment) upon Mr Pitt's table. Lord Spencer has given up his opposition more than once: once, as I was informed by Mr Long, who called upon me at my house to congratulate me on it, and afterwards in conversation repeated to me that, after what Lord Spencer had said to him,—as I understood,—he certainly could not go back with honour,—honour was the word: another time, (after having been at my house, and seen what was to be seen,) as was notified on his part by Lord Hugh Seymour to my brother, who came to me full of it at the time, but I doubt has since forgotten it.

"Lord Spencer has since offered to me, through my brother, to give up his opposition if I would accept of a *marsh*, admirably convenient for me in a pecuniary view, but as certainly pregnant with the destruction by hundreds in a year of those whom I would wish to reform, and not to poison, (I speak not from surmises, but *records*.) I wished to rid myself, once for all, of the temptation to commit safe murder for great gain; and, accordingly, after a hard struggle, prevailed to have retained in the contract the clause binding me (in consideration of what was deemed an adequate premium) to pay £100 for every death.

"Lord Spencer, on the report of his steward, who I believe has been the private mover of all these vexations, estimates at between £2000 and £3000 a-year the detriment that may accrue to his son, (to whom he pointed on the occasion,) by an adhesion to the old choice, quoting two instances in which persons who had been treating for taking land of him, on I know not what advantageous terms, had broke off on hearing of the Penitentiary House. Hopeless of justice, I would most gladly bind myself to take the land upon those terms, whatever they were, and, in short, indemnify this poor family from the apprehended injury, according to their own estimate of the extent of it.

"It was in September last that the draught of the contract, after having been settled *in terminis* with Mr Pitt, through the medium of Mr Long, went to Mr White, with a letter signed by Mr Long, ordering it to be '*prepared for their Lordships' signature:*' since which I have been obliged to pay (*inter alia*) (in addition to £8000 or £9000 out of pocket before) £1140 for cast-iron, (materials for the building,) not to reckon some hundreds more, which by this time I am bound for. I am now lending my mind to the irksome task of drawing up my case with the vouchers for publication, that when those who take an interest in my fate become witnesses of my ruin, they may see it has not had imprudence for its cause, unless it be imprudence to have attributed common honesty to Mr Pitt. In this crisis you are my sheet-anchor,—*more orientali!*

"P. S. What can I say more? I could read you a memorial to the Treasury, with Mr Dundas's answer, refusing to forward it, as being injurious to Lord Spencer, attributing to him what he has since avowed.—N. B. It attributed nothing, it was merely *hypothetical*,—that people would say how it would look, if, &c.

"It was about the month of September above-mentioned, that Lord Spencer (according to his own account of the matter to my brother) signified his last, and still subsisting opposition to Mr Pitt, who all the while, either not meaning to sign the draught he had ordered to be prepared, or at least doubting whether he should sign it or no, has been suffering me (without vouchsafing the least hint of any such doubts) to amuse myself with putting it through all its stages, and laying out my money upon the faith of it."

I have introduced the following paper because it exhibits Bentham's manner of looking at every subject in all its bearings; and, secondly, because it affords an answer to an accusation frequently brought against Bentham, that he *selected* the unhealthy site of the Penitentiary, Millbank, for his Panopticon; but the correspondence shows that the site was no choice of his:—

"*18th August*, 1796.

REASONS *in favour of the spot near* WOOLWICH, *as a site for the* PENITENTIARY HOUSE.

Properties required by the Acts 19 Geo. III. c. 74, and 34 Geo. III. c. 84,—or by the Reports of the Committees.

I. VICINITY TO THE RIVER.—Distance, less than 500 yards. N.B. Without communication with the river, immediate or by a *cut*, the Contract not executable.

II. ELEVATION,—rising to about 100 feet,—thence

III. HEALTHFULNESS.

IV. VICINITY TO THE METROPOLIS,—(the seat of *inspection*, and market for raw *materials* and finished *goods*.)

This is the nearest spot attainable, (accompanied with the preceding advantages,) after Battersea Rise.

REASONS *alleged* contra *with* ANSWERS.

I. PLEASANTNESS OF THE SPOT.

Answers,—

1. See this in the list of reasons *pro* No. V. N. B. Pleasantness inseparable from the conjunction of *Elevation* with *Vicinity to the River*,—thence from *Healthfulness*.
2. This no objection, any farther than as inducing a *suspicion* of a *tendency* to seek the gratification of *private* taste to the prejudice of the *public* service: a prejudice which *here* can *not* accrue.

II. REPUGNANCE ON THE PART OF PROPRIETORS.

Answers,—

1. The very existence of opposition is sufficient to demonstrate a *certain* degree of repugnance.—Reasons for not presuming any *greater*:—
   1. A great part (perhaps half) of the elevation *leased out* and *carried away*,—therefore little attachment to the *elevation*.
   2. Seventeen acres of the *wood contiguous*

V. PLEASANTNESS,—

1. Inviting to the *inspecting* class.
2. Inviting to those who may reap benefit from the *example*.
3. Inviting to future *Governors*, in respect of constancy of *residence*.
4. Communicating the enjoyment of the spot to *thousands*, instead of confining it to *one*.

VI. SECURITY,—

1. The strength of the *Dock Yard* within call.
2. That of the *Barracks* distant not above half-a-mile, summonable by signals.

VII. VICINITY TO THE *Present* STATION OF THE CONVICTS. Distance, not 600 yards. Hence—

1. Saving the Establishment from the *increased* alarm and disgust that would pursue it to any *new* place.
2. Faculty of *employing* the *Convicts* in the Digging of the *Cut*, and the erection of the Building, &c., &c., as recommended by the Committees.

VIII. VICINITY OF BUILDING MATERIALS. Sand dug, Bricks and Lime made, on the spot.

to the elevation, *lately* leased out and *grubbed* up,—therefore little attachment to the *wood*.

3. The *whole* left exposed to the inroads of men and cattle. *Fences*, either *wanting*, or originally inefficient, and those run to ruin. Parts, an habitual bog for the populace, neighbouring and itinerant,—therefore little regard for the *general appearance* of the place. N. B. The ground in front of the *Mansion* (a *mile* off) neatly kept.

2. The repugnance confined to *one* proprietor —impossible to have *less* anywhere: scarce possible not to have many times as much. At the place *last* before proposed, *one unwilling consenter:* 28 *co-proprietors* who *might*, any or all of them, have been repugnants,—besides *Lessees*, who *certainly would*.

N. B. The *Acts* have declared the only cases in which the plea of repugnance *ought* to be admitted.—This not in the number.—This wood not "*planted*," (§ 10,) but *grubbing up*.

III. OFFERS TO PURCHASE REFUSED.—*Answer*,—

1. Power to accept wanting. Estate in *strict settlement*.
2. The refusal, if voluntary, no evidence of *particular* repugnance, derived from attachment to the spot. Aversion to dismemberment, a *general* concomitant to great landed opulence.

CONCLUSION. A *fit* site, obtainable for *such* a purpose, *without a dissentient voice*, is the site of the *Golden Tree* and the *Singing Water:* and after a three years' consideration, I beg to be excused from searching for it.—J. B."

Among the parties whom Bentham had occasion to consult was the Bishop of Rochester. From him Bentham sought an audience. I find his answer: "The Bishop of Rochester declines the honour of Mr Bentham's visits."—not a word more.

Wilberforce writes:

WILBERFORCE TO BENTHAM.

"21*st April*, 1796.

"I am very much vexed, indeed, at the conduct, tho' less surprised at the demeanour, of the bishop. I really thought it possible that he might have been susceptible of some feeling for the public good, when not preoccupied by private interest. We will try what can be made of Rose or of the bishop through the influence of Government; but I own I fear that you would be hardly able to carry a bill through both Houses in the face of the Dean and Chapter's opposition. I say *you*; I ought not to have it to *say;* but I doubt if it will be practicable to prevail on the Ministry to bring forward the proposition themselves as

they ought, and to support it with all their force. However, we will talk of this when we meet. I may probably pass through town on Thursday at three o'clock, which I throw out that you may know where I am likely to be, if you wish to see me. I would cheerfully come up on Wednesday if I thought it of moment, to be present at your interview with Rose; but I don't think that of the least consequence. I will, however, give him a line 'to quicken.' I must say, few things have more impressed my mind with a sense of various bad passions and mischievous weaknesses which infest the human mind, than several circumstances which have happened in relation to your undertaking: a little, ever so little, religion would have prevented it all. I long ago have put the public in the possession of the practical benefits of your plan. This is one amongst the many instances I have had occasion to observe how much a little of this only solid principle tends to the wellbeing of communities. I need not repeat that it will ever give me pleasure to coöperate with you, or desire you always to call on me for aid without ceremony. I heartily and strongly wish I could lend you more effectual assistance.—In great haste, yours sincerely,

"W. W."

ROMILLY TO BENTHAM.

"*26th April*, 1797.

"I have spoken to the Solicitor-general, and, at his recommendation, to the Attorney-general, respecting your bill; and though the Attorney has not neglected it,—he has done what will probably be as injurious to you. He has so fully considered it, that he has a thousand difficulties which it will take a long time to get over. He says it is the most unlike an Act of Parliament he ever saw. I told him that Lowndes drew it. Was I right, or have I confounded it with a former bill? I begin to suspect that I have; for though Lowndes' compositions have many defects,—that of being unlike Acts of Parliament is not one of them.—Yours ever,

"S. R."

Again,—

"*2d May*, 1797.

"DEAR BENTHAM,—I have done my best for you; but I am afraid you will think I have done but little. I had a consultation this morning with the Attorney and Solicitor General. As soon as the business of it was over, I introduced your bill, and found that it had not been looked at since I saw them last. However, they promised to settle it before they parted, and I left them with the bill before them, and pens in their hands. I pressed them to let me have the draught, or to permit you to see it before it was returned to the Treasury, but was not able to surmount their objections to such a proceeding. I told them, I understood from you that they had promised, or at least given you to understand, that they would communicate their objections, if they had any, to you; but they had no recollection of it, and I found I could make nothing of them. I told them, on going away, that I should inform you that White would have the bill to-day.—Yours ever,

"S. R."

BENTHAM TO GEORGE ROSE.

"*23d February*, 1798.

"SIR,—I understand from the Solicitor-general, that my bill (the Tothill Fields Penitentiary Bill) is unexceptionable—that consent of parties may be dispensed with,—but that the bill is an *Enclosure Bill*, and as such cannot be brought into Parliament till *next* session, for want of certain *notices*. Here then commences a certain suspension of the business for another twelvemonth, (making from the time of my being ordered to take my arrangements four-and-a-half years,) and at the end of it a prospect already thus darkened by experience. Meantime, while others are proving their loyalty by their affluence, I, who have nothing left but loyalty, am reduced to shut up my house, (the residence of the family for three-and-thirty years,) fortunate in finding a brother's to take refuge in. Between £10,000 and £11,000 was, I think, the

amount of advances as stated (it is years since) in the last of my memorials on the subject to the Treasury. Since then it has been increased to an amount which it frightens me to look into, by interest and fresh expenses,—for every fresh effort brings its expense. I cannot think that the utter ruin of the individual, whose pecuniary advances are not the greatest even of his pecuniary sacrifices, would be regarded by Mr Pitt as a fit termination for this business. Under these circumstances, I will venture to submit an expedient, the adoption of which would at least not be detrimental to the *public*, and might afford *me* some relief, without *expense* to *government*, or cause of *complaint* to anybody. Had my plan taken place at the time originally intended, the existing plan, so far as the hulks are concerned, would have ceased several years ago. The adoption of the *new* plan has never been a secret to the conductors of the *old* one: whatever may have been the benefits of it, they have therefore already been in possession of those benefits longer,—much longer, than they could naturally have expected. There seems no reason why they should reap a profit from this fresh misfortune (I mean this fresh delay) coming on the back of so many other misfortunes. The death of a Duncan Campbell, Esq., and the sale of his effects, appeared some months ago in the papers. I suppose Mr Campbell the superintendent:—but under the circumstances just stated, whether he be, or be not in existence, will not be thought (I presume) to make much difference. The existing contract ceases at any time on three months' notice. Several years ago, Mr Campbell declared to Sir Charles Bunbury, 'that 'the retaining his situation was no longer a *personal* object to him —his *delegates* remained the *sole* object of his care.' In this there was nothing but what was natural enough; after receiving for so many years £38 a-head, the profit to be made upon less than £21, with additional charges, and provisions so much dearer, would comparatively be of small importance. Were the convicts to be intrusted to my care upon the existing plan, it would, besides the present relief, afford me the opportunity of initiating myself into the business; and the transition from the Hulk plan to the Penitentiary-house plan, would be smoother, and attended with less hazard, than if, at one and the same time, *persons*, as well as *places*, were comprehended in the change. Mr Campbell himself never resided in the Hulks: the persons who supply *his* place on board, would of course be the persons to supply mine. The system is too effectually vicious to admit of much improvement: yet here and there something might *perhaps* be done, were it only in the way of preparation for a better. Giving the *notices* necessary for the bill, at the same time with the *notice* for the termination of the *contract*, would *publish* the sincerity of the Government, (which, however *real*, must be confessed to stand in some need of *publication*,) and show that something more is intended on *both* sides, than the bartering a *system* for a *job*. As to the change of hands, I have never heard that any very uncommon qualities have hitherto been looked for as requisite for the situation. In my own instance, the foundation of everything has been done on the supposition of my being capable of giving birth to a *new* and *better* plan. I hope I am *still* capable of preventing the *old bad* plan from getting worse. I have the honour to be, with all respect, Sir, your most obedient humble servant."

GEORGE ROSE TO BENTHAM.

"*24th February*, 1798.

"DEAR SIR,—I observe by some orders from the Committee on Finance, that, among other subjects, they are about to enter on the consideration of the expense of the convicts, which I am extremely glad of for various reasons. I think you may with perfect propriety lay before them the whole of your plan; they may perhaps think themselves confined to the expense only of the system, but the difficulty might be got over by a special instruction: in any event, it is competent to them to con-

sider of your proposal for taking care of the convicts in the hulks. I have always wished well to the measure proposed by you of solitary confinement, and am sorry so many difficulties have occurred about it: the one you last mentioned I could not foresee. If the committee can be prevailed with to take up the business, the public would be satisfied that it should either proceed, or at once be given up, as they should report,—because I am sure their opinion would have very great weight, as it ought to have.

"I am quite ignorant of the expense you state yourself to have been at.—I am, dear Sir, your faithful humble servant."

BENTHAM TO WILLIAM WILBERFORCE.

"*Q. S. P.*, *Friday*, 5 *o'clock*, *July* 18, 1800.

"MY DEAR SIR,—*Between* 12*th and* 21*st April*, 1800—Memorial, containing the *very first communication in any shape*, on the subject of *rise of prices*. Audience refused: 'Memorial' ordered: with refusal to *hear*, or to *say* upon what *points*.

"Was not this an audience? (say you)—Yes: an audience *in a passage*, Mr Long's long legs straining themselves to escape.

"This is what Mr Long gave you by way of answer to a question about causes of delay—your question embracing (I *suppose*, but you alone *know*) the delay from July 1799 to July 1800. I told you it was a *hasty* answer, given under the pressure of your question for want of a more satisfactory one. Was my construction *uncandid?*—find me one that is less so, and I will adopt it.

"J. B.

"P.S.—Why mention this? Only that you may not turn aside from me, like the ——, who was it?—and the Levite, under the notion of my having cut my own throat, by starting rise of prices.

"You think I ought not to do it so cheap. Moreton Pitt is sure I cannot, and shall be ruined. Mr Rose *pro contra*, the last time I had the honour of seeing him, viz. about this time twelvemonth. *Ipsissima verba*,—

"'So, Mr Bentham, I find you have taken very good care of yourself—special care indeed! I thought you had dealt more liberally with the public.' So far Mr Rose. Think you I flew at him as I did at you? I know better things.

"Supposition whimsical enough; but not unprecedented. Panopticon lost by four votes: *two*, because the terms not high enough; the project, therefore, either knavish or foolish, and impracticable:—two, because the terms so high; the project rapacious and extortionate.

"The article binding me to pay forfeit for every person recommitted after discharge, has lost me many a vote. It had hurt me even with Abbot: it had hurt me with Nepean—not to mention persons too high to be named." I satisfied him in three words, that the loss could not befall me, but in company with a much greater gain. Better the man is hanged, and then his superannuated annuity is saved to me: or he comes back to me again, and then I squeeze it out of him with interest. Nepean was satisfied; but the dining-room gentlemen are above the reach of satisfaction."

BENTHAM TO LORD ST HELENS.

"*Q. S. P.*, 19*th July*, 1801.

"MY DEAR LORD,—The mansion of St Helens (I learn this moment) has been transplanted from the little *ci-devant* kingdom of Ireland, to the great and United Kingdom of Great Britain and Ireland put together. Long may it live and flourish! The house of Loretto travelled further, but not to better purpose. Angels themselves do not manage these things better than our people do, *moyennant finance*.

"The New-year's-ode manufactory, forming one united kingdom with the police-office, overlooks a part of my dominions. Manufacturer, 'Poeta Pye,' not 'Parvus Pybus.' Having some claims, I might have taxed it for an ode, by way of epistle congratulatory

on this auspicious occasion; but that, howsoever poetry may be more harmonious, prose, by its sincerity, sounded most in unison with my feelings.

"Murmurations about situations may now, I hope, subside: in the scale of substantial value, the possible angel does not, under the existing circumstances, appear by any means a match for the actually-existing mouse. A mission to a Christian country, where glory cries, Come reap me, is surely preferable to the best mission *in partibus*—not to say in *imbibus*.

"Nepean (I hear) has a long letter, in which his Majesty's representative at the Court of Russia complains of ill health. Whoever has been in Russia knows how ambiguous a sort of a thing ill health is in Russian language. Boljesn may, I think, be not unaptly rendered indisposed. I hope, in the present instance, it is nothing worse than a sort of a Swiss *maladie du pays;* for which, in God's and his Majesty's own good time, loco-motion would be a cure.

"Exactly at this time, I learn, from the semi-official fountain of French truth, that Lord St Helens, 'so well calculated by his personal character to succeed in all diplomatic missions intrusted to him, is far from finding at Petersburg those dispositions with which the English administration flattered themselves.' Far from finding them? Why, then, he has made them. 'Better and better still,' quoth he. Accordingly, in the estimation of *The Times's* Hamburg Correspondent, this is his lordship's *chef-d'œuvre* of diplomacy.

"In our small way, here at Q. S. P., we are jogging on tolerably well in naval work matters: things are done, persons appointed, pretty much according to our advice. In matters of *meum* and *tuum*, they cheat us sadly: and by whose counsel? 'of all the birds in the air:' but of that arch-Achitophel N——? Being remediless in the premises, we make French shrugs; while a tolerably successful, and not dishonest, though obscure, ambition affords a sort of salve for the wound in the purse. (Don't say anything to the Traytor: in Panopticon matters he is a Daniel.) According to Vansittart's report, the *Dart* and *Arrow* attracted much notice in the Baltic: your lordship may have heard more. They are among the vessels which certain Dock-yard officers, by inspiration from above, discovered—not by intuition, but without intuition, and without so much as inquiry about construction, discovered and reported, officially reported, to be 'unfit for his Majesty's service at sea.' But now Lazarus is comforted, and they are tormented.

"I am in a sort of relation with Vansittart about Annuity Notes: and (generous creature as I am to acknowledge it) this babe and suckling—this abortion rather, of diplomacy, pointed out the same amendment that was made by a patriarch in the trade. I am to publish: and they furnish me with documents. Being a good-natured man, he complies with some whims of mine; and we seem not unlikely to be on pleasant terms. Panopticon is still in darkness. He has sent me an appointment for Tuesday (the 21st); but which is to be the order of the day I know not. The Treasury, in their distress, in two of their 'FURTHER PROCEEDINGS' papers, have referred the proposed defalcation to an alleged enhancement of terms on my part. The glaring falsehood and *mala fides* of this charge (the Act of the ex-Administration) gives me what appears to me, and what I think I have found already in experience, a considerable advantage. Certain omitted documents would fix the ex-people not only with error, but with *mala fides*. I rave and clamour upon the plea of injured character for the publication of these documents; hoping they will find it less trouble to do me justice upon the principal point, than to make a bad defence upon the interlocutory question, in endeavouring to whitewash their predecessors. My screams have already so far prevailed, that 'cockatoo,' in an accidental chance medley conversation, assumed—not compensation in lieu of everything, but the reduced number with compensation—full and ample compensation, for the number defalcated, pretending with Long, to read as much

in the Treasury Minutes, &c., which contain no such thing. Upon the whole, I am not quite so near hanging myself as when you saw me.

"The public zeal and uprightness of that office, (I am got back to the Admiralty now,) as far as your brother Lord of a Saint, Achitophel, Daniel, and another person, (a very little one,) are concerned, would afford some really pleasing sketches. What Lord Spencer and Lord St Vincent join in looking upon as our due, (and what we are dying for want of in a parenthesis,) that fellow will not suffer us to have. He would sooner give it us out of his own pocket: he *has* lent it us, rather than that the king should give it us:—and so we lose it. We would give Lordship, now and then, a few gleanings in this way, if Lordship did not disdain such trash, and would favour us with a few pickings from the Table-talk of Petersburg. No: these are meat for our master.—His Majesty's representative has no such pearls to throw away to any such swine.

"P.S.—I am not a woman. I scorn, for my part, to put the *punctum saliens* and final cause of a letter into the postscript. I say nothing of the fatherless: still less of the prisoners."

BENTHAM TO SIR CHARLES BUNBURY.

"DEAR SIR,—Crimes, distinguished by the name of unnatural, are endemial, not to say universal, on board the Hulks in both places, Woolwich as well as Portsmouth. As the Hulks are emptied of the contents, these crimes flow out with them, and propagate themselves *in patriam populumque*. At Woolwich, an initiation of this sort stands in the place of garnish, and is exacted with equal rigour. This fact is put out of doubt by indubitable evidence. Not only *such things are*, but, as the Mayor of Portsmouth, Sir John Carter, in a letter now before me, very sensibly observes, from the very nature of the receptacle, *such things ever must be*. Such are the abominations of which Lord Grosvenor has *obtained*, and Lord Pelham and Mr Addington *decreed*, the perpetuation and diffusion. The official lord has had notice of them over and over again: to the pious lord, it does not seem very likely to have been a secret. Query, in a court, able and willing to do substantial justice, who is most guilty of them: he who practises them upon an individual scale, or he who protects and establishes them upon a public scale? This is a query I propose submitting to the public. Know you any just cause or impediment that should prevent me? or will you take the task off my hands?

"The long letter you favoured me with is still in my mind's eye. Will you make the experiment upon your noble and pious friend? Give him legal notice of what he knows already, and ask him whether he still chooses it shall be so? Alas, no! Your heart fails you: I see you shrinking from it.

"You misconceived me: the piety of the noble lord was never with me the matter in dispute: the question was, and is, respecting the connexion between piety and morality,—if public morality be morality in his noble breast. This, in my heretical view of the matter, is the *end*: piety, useful only as a *means*, leading to that end. For, except through the medium of morality, who is to be the better for a man's piety? Man, I suppose, if anybody: not the Almighty, I presume.

"As to your potent friend, Mr Addington, on this as on other occasions, he waits to be determined, as he has hitherto been determined, by the greater uneasiness: by the greater force of parliamentary and closet pressure. To all considerations of good faith, and public morality, and public decorum on those grounds, he has been reported '*callous*': such was the expressive word, and from a surgeon who probed him to the quick. Candid, honey-minded man! How pure his public spirit! How passionate his desire to do whatever were for the best! What professions! What effusions! The judgment of Sir Evan Nepean could not stand against the torrent. Does yours dare encounter it? Mistake me not: Nepean was not the surgeon spoken of. As for the man of might, his perpetual smiles are entailed upon every man whom it is possible he

should ever have to count with: he makes himself amends upon a defenceless and deserted man like me.

"Good faith, public morality, constitution,—all alike sacred to your potent friends. 'Plea for the Constitution,'—a pamphlet, of which you will not bear —dare—(which shall I say?) to read so much as the title-page. The Attorney-general was 'shocked' at it. To a man who was not yet '*callous*,' what can be more shocking than truths at once disgraceful and incontestible! The mention made of himself in the Preface he was not displeased with: the truth of the fact he admitted, expressly or tacitly, to Romilly. Thank me—yes, even me,—for the Transportation-facilitating Act! Thanks to what they have not yet destroyed of the Constitution, it is in the power of a worm, while writhing under the foot of the oppressor, to give motion to the sceptre. I have not done with them yet by a great deal. The Attorney-general, if he is to be believed, would be favourable if he durst.

"Sir C. Bunbury has, or at least had, a project for forming a posse to storm the minister in the closet. Wilberforce, will he join or head the posse? Wilberforce and H. Thornton, are they good Samaritans, or are they Priest and Levite?"

BENTHAM TO WILLIAM WILBERFORCE.

"9*th Dec.* 1801.

"As a spot in the *Carte du Pays*, it may not be amiss that your protectorship should be apprised that, in the Duke of Portland's reign, his prime minister, Mr B., took a very active, though a very civil and covert part, against Panopticon. He had projects of his own, of which he made no secret to me: and took more occasions than one to endeavour to make me regard my own as desperate. I learned from different persons, that being in as bad odour at the Treasury as I could be, without having the like pretensions on the score of justice, his applications experienced, if possible, less attention than mine.

"He once brought to my house his Grace *cum totâ sequelâ suâ* to see what was to be seen. At that time the works had long ago been taken to pieces and locked up: Panopticon model little better than a ruin; so that had I even been in a humour for officiating as showman, no tolerable raree-show could have been made. I endured the honour, not being able to escape it; but, without any of those advertisements which I received afterwards, I saw enough to see that prepossessions and purposes were far enough from being favourable. A point his Grace was clear about was, that a lantern so large as mine could not be so light as a long parallelogram room upon the London plan with glass in a small part of one of the short sides; and as the model of the lantern was enclosed in a room which is none of the lightest, experiment was unfortunately on his side. On another point, the existence of a spot within the building from whence every part of it might be viewed at once, I was equally unfortunate: a staff which had been set up with a sight-hole in it for the marking of that spot, was among the fractured limbs of it; and the assurances that I gave him that the fabric had been put together by measurements made by an architect for the express purpose of producing that effect, and that as many as had looked through the sight-hole had been witnesses of the production of it, were not fortunate enough to obtain signs of credence.

"I have despatched to the Taylor's for a handsome suit of clothes, for what is acknowledged to be the best part of a book-maker, his book: when it comes home, I propose sending it, in quality of representative of the remaining part, on a visit of homage to his Grace's successor, of whom I have better hopes.

"*Parve (nec invideo) sine me liber ibis*,—a book in Russia, may, I hope, be accepted as an equivalent for a piece of card."

BENTHAM TO SIR WILLIAM PULTENEY.

"SIR,—A man that obtains approbation such as yours, does not write in vain.

"The little work you speak of was a published one. Since my being favoured with your letter, I have looked out two

still smaller ones, (one of them but a fragment,) and which being unpublished, can scarcely have met your eye.

"The fragment has for its subject, a situation I had once some prospects of, which are now sunk by perfidy and oppression, together with so many other prospects, and about half the property that should have served for their support.

"The other I send for the sake of a principle of political economy, which to me has long been a fundamental one, but which, if received in practice, would make a very extensive change in our appetite for untaxable colonies — our projects for encouragement—our apprehensions of discouragement in regard to particular branches of productive industry: consequently in our anxieties about treaties of commerce, our wars to punish people for not entering into treaties of commerce with us, our fears about taxing exports, (*i. e.* taxing foreigners,) and a thousand other things.

"You have already my unpublished work intituled 'Panopticon.' I have a letter of yours rewarding me with your approbation of it. These small scraps are an experiment upon your patience: say you have read *them*, you have paid me for the *next* I send, and I have plenty for you upon the same terms. The 'Defence of Usury,' and the anonymous 'Fragment on Government,' I suppose you may have read in your day since others did. Of my 4to 'Introduction to the Principles of Morals and Legislation,' scarce the existence is known *here*. I have pursued the investigation in detail, through almost every branch of legislation; but scarce any part is finished, much less published, as it never happened to me to receive any the smallest reason for expecting that anything from me, would, in my own lifetime at least, be of any use. I should have excepted one instance, and in that you see the sort of payment I have received. Once, indeed, (it just occurs to me,) Mr Rose, in the presence of Mr Pitt, did say to me, that he had read my pamphlet about Law Taxes, and that there should be no more Law Taxes.

"My labours are not so perfectly unknown on the other side of the water as on this. A friend of mine, whose native language is French, and to whom, at his desire, I turned them over as so much lumber, has given them *there* a sort of currency. Some tokens of it are in the 'Bibliothèque Britannique,' a journal by Professor Pictet of Geneva, lately elected to the Tribunate. Three volumes of 'Ideas,' long ago forgotten by their author, are (I understand) to make their appearance in Paris before the month is out. Meantime they have put me up at the Institute as one of the three candidates for the sort of distinction lately conferred on Major Rennel and Sir Joseph Banks. So much the worse, perhaps, for me *here*. The word candidate seems to imply solicitation. Directly or indirectly, I had no more hand in the matter than you had. All I have ever known about it is from the newspapers.

"I have run on into the usual loquaciousness of complaining egotism. It is time I should beg your pardon, and subscribe myself, Sir, yours, &c.

"P.S.—If you have read the Treasury Reports, you will have supposed my business to have gone off upon a disagreement about terms. A studied falsehood: no disagreement on *my* part about anything. The real grounds of relinquishment have been a succession of concealed promises, which they have never dared either to deny or to avow, but which I have evidence of. In the 28th Finance Report, is a guarded history (by me) of a course of four years' perfidy. It has since been doubled."

* * * * * *

"In the course of the eight years' provocation I have endured, I think you must have given me credit for something in the way of *sang froid* and prudence at least, in never having stooped to go to Acheson with my story: oh, how would his chops water, did he but know of the *bonne bouche* I could treat him with!

"Should Lord Pelham wish to see the substance of the paper in print, (for example to serve him as an ostensible warrant for doing his duty, and to afford him the plea of necessity for

breaking so many illegal and corrupt promises as there will be to break,) he could be accommodated without difficulty. The hostilities in it would cost me much less trouble to put out, than it did to put them in. They were put in, why?—because the conduct of this present Administration has all along been such to me, as never to hold out to me any hopes but from their fears.

"Losing the post of yesterday has since given me time for running over Collins's continuation of his N. S. Wales history, from September 1796 to August 1801. The predictions I had hazarded as above, are verified to a degree astonishing even to myself. The most promising settlements (Hawkesbury and Norfolk Island) either abandoning, or recommended to be abandoned. Famine, at the times of the greatest possible future plenty, at all times probable from any one of five sources:—1. Drought; 2. Inundation; 3. Fire—natural; 4. Incendiarism; and 5. Savage hostility, against which defence is unavailing. As to returns to England, the idea of preventing them on the part of expirees (an imprisonment always illegal) is now disclaimed, though illegal exceptions continue to be made. Returns by non-expirees less and less preventible. The profligacy always universal, and at its maximum: the D. of P. with Mr K., with full notice of it, spreading lies to the contrary, for no better purpose than that of pimping to the whims of Lord B. about his Millbank estate, to the prejudice of his real interests, as declared by all his professional advisers. *Impeachable* matter crowds in, in such quantities, the only perplexity is about the choice. A single drop in this ocean of guilt, and that demonstrable by record, has been declared assets for impeachment by professional men of the first eminence—no party men, and in the coolest blood. I have exhausted my own paper, and (I fear) your patience.—Yours with the truest respect,

"J. B.

"Talk of bastilles?—N. S. Wales the true bastille; the other, if true, a mole-hill to a mountain."

On the 20th, Sir Charles Bunbury received a letter from Lord Pelham, as follows:—

"*Wimbledon, 19th August*, 1802.

"MY DEAR SIR CHARLES,—I have received Mr Bentham's papers, and I will find out what steps have been taken by the Treasury before I send for him, as it appears to me, that to give him any false hopes, would, in the present state of his mind, produce the very worst effects. At all events, I will apply my mind to the subject, and endeavour to get something settled before the meeting of Parliament.—With very sincere regard, ever yours most faithfully."

BENTHAM TO SIR CHARLES BUNBURY.

"*Q. S. P., 21st August*, 1802—*sent 23d.*

"MY DEAR SIR,—I have this moment to thank you for your kind letter, enclosing that of Lord Pelham. And has this passed upon Sir Charles Bunbury for '*satisfaction*'? My dear Sir, you have not been at the fair lately. This is the old lay, over and over, for the hundredth time. This is Sanchoniathon and the Cosmogony, again and again, with Ephraim Jenkins, Pitt, Rose, Long, King, Portland, Addington, Robertson, Lathrop Murray at the bottom of it.

"To be serious. In your situation, stranger as you happily are to the incidents with which my memory is stocked, in such minute detail and such unhappy abundance, his letter appears to have produced (as it was but natural it should produce) the effect it was intended to produce—viz., that of appearing to 'imply approbation.' But what approbation? that very approbation which was somewhat more than implied almost a twelvemonth ago, but without producing the smallest particle of that '*satisfaction*,' the hope of which (such is your good opinion of your friend) continues notwithstanding to be produced by it. For my own part, I wish it were possible to me to see anything better in it than a *qualis ab incepto*—a

perseverance in the same system of complicity and evasion, that he and his colleagues adopted at their entrance into the Ministry, with the materials for decision passing through their hands, and staring them in the face. Till the meeting of Parliament he has obtained a respite from you, (so he thinks at least,) by his talk about 'endeavours:' when Parliament meets, he shirks you (as before) as long as he can; and when you have caught him at last, and forced him to speak out, then it is that you will learn, that *he is sorry for it, but his 'endeavours' have been fruitless.*

"The amusement it affords me, to see what turn evasion takes in such a mind, in such a situation, and in such circumstances, is the only satisfaction I have derived from his epistle. The two characters in which he affects to view me, are—that of a *patient* labouring under a sort of mental derangement, (though, the hope is, but a temporary one,) and that of a *suitor*—an unfledged suitor—prone to embrace phantoms for realities, and panting for the felicity of falling at his feet. As to '*the present state of' my 'mind,'* you may venture to assure his lordship, that it is precisely the same as it was above a twelvemonth ago, as he has seen in my papers (if he has been pleased to look at them)—in my papers of that date—as it has been ever since, and as it will continue to be, so long as the like impressions continue to be made upon it by the action of the like causes. He may see the same mind, in the same state, in my printed evidence, as laid, in June, 1798, before the Committee of Finance: and, if such things were worth preserving, you yourself, my good Sir, could furnish him with some copies of it, written four years earlier, at a time when perfidy and corruption were in the bud, and when Lord Spencer, after seating himself for the first time at the same table with Mr Pitt, stood up and said, *I am now above the law*—Mr Pitt answering and saying, *So you are.* For his lordship's determination not to 'give' me any of those 'false hopes' which, in a state of mind less compassionable, another man in my place might have been treated with, and which I have been saved from being plied with, in consideration of the tremendous effects (these indescribable '*worst effects*') of which an application of that sort might, in my place, have been productive, he is certainly not to be blamed: not indeed in respect of any such bad effects, or any effects, that any machinery in use for the raising of such phantoms could have produced, (for all the powers of mechanism could not add anything to the exhibitions of that sort that have been so familiar to me for these eight years,) but because no attempt in that way can be of any use to him and his associates, whereas the abstaining from it leaves a load the less on their character and their conscience.

"Throughout the whole of the business, from the time when the finger of corrupt and clandestine opposition was held up by the first in the train of successive lords, the general rule has been to give *nothing but* 'hopes,' and those hopes 'false' ones. Witness one sample instead of a thousand:—orders—official orders—(24th March, 1800,) to make preparations for 2000 convicts—these orders, in a letter, concerted, between the two floors of the Treasury, for the express (and afterwards even avowed!) purpose of making a pretence for giving none. All this (you say) is old and stale. The new incident then is, that for once—*pro hâc vice*—this rule is now (it seems) to be departed from: departed from, not *de jure*, but *ex gratiâ*, in consideration of the particular circumstances of this very particular case. Understand always, provided his lordship continues to the end in the sentiments now professed: an expectation, in which this very letter forbids me to indulge myself.

"I will tell you, my good Sir, what their plan is, and what my chance is under it:—judge whether it can content me.

"In the first place, they fall at the feet of the *sack of oats:* that gained, (which is impossible,) then, with that in their hand, they fall at the feet (such feet as adders have) of the *deaf adder:* —I mean the pious lord, who is so

well known to take that hero of Scripture history for his model: but lest they should fail in either—(and they will fail in both)—thence come the expeditions of discovery—the expeditions for '*finding out what steps have been taken at the Treasury*,' and the *fears* about the '*giving*' of '*false hopes*.' Shut against everything that could be said: about his land, and about the effect of the Penitentiary establishment upon the value of it, by his land-surveyor and his land-steward, you will judge whether the ears of that personage are likely to open themselves with more facility upon *those* topics to the representations of a first Lord of his Majesty's Treasury, or his Majesty's Secretary of State.

"So long ago as the 10th of September, 1801, Mr Vansittart (as declared by him in a letter, copy of which had been already for a month or two in the hands of Lord Pelham at his lordship's desire, as signified to you,)—Mr Vansittart, acting Secretary to the Treasury, was labouring in the fruitless endeavour of finding '*an opportunity of consulting with Lord Pelham*.'* Now, on the 19th of August, 1802, Lord Pelham, on his part, is setting out on this his expedition of discovery, bent upon '*finding out*' (maugre all concealments) 'what steps have been taken by the Treasury,'—*i. e.* by Mr Vansittart:—the packet put by you as above into his lordship's hands, certifying that *no* steps at all had been taken by the Treasury, other than those exhibited by it, and the *motionless* state of the business being the declared cause why he was *then* troubled with it.

"All this while, within a stone's throw of both these ministers, whose efforts to find one another out, at the distance of the two contiguous floors of the same house, had for a twelvemonth been so unavailing—in sight of them both, sat Mr (now Sir Evan) Nepean, from whom both personages, and above both, Mr Addington, were determined with equal resolution *never* to '*find out what steps*' to his (Sir Evan's) knowledge '*had been taken by the Treasury*' (the former Treasury) in the business—determined by this most coercive of all reasons, that he was the only man in office from whom they could be *apprehensive* of receiving any *true* account of it.

"In a copy I sent, of this letter of Mr Vansittart's, among other papers, in December last, to Mr Wilberforce, I find a comment which accompanied it in pencil, in these words:—'When Mr Wilberforce spoke on the subject to Lord Pelham, neither Mr Vansittart, nor either of the Mr Addington's, *had had* any such opportunity.' They knew better things. They did not *intend* to have it: they *durst not* have it, to any purpose.

"To return to his lordship's letter. The point I looked to in it, was—whether, amidst so much guilt—by the former people, amidst accusations upon accusations, never yet denied—frequently, though always in the view of adding to it, even confessed—any symptoms were to be found of those *regrets*, which, in his situation, a man who meant honestly and really intended to turn over a new leaf, would, *in my view of the matter*, not dissemble. Finding *no* such indications, my exertions, (I mean in the line spoken of in my former letters,) far from being relaxed, will be quickened by the intended opiate.

"One thing I understand pretty distinctly: *dates* are to me a sufficient proof of it. It is after taking a week to hear,† and hearing accordingly, and from the Treasury, not only what steps have been taken, but what steps (under Providence) *will* be taken, that he is setting out upon his expedition, to that unknown and distant clime, for the discovery of the facts that have been in his pocket for these six weeks. In this circumstance my little mind, '*even in the present state of it*,' reads the present state of two great ones. I see terror enough in both places: not yet enough,

* See Correspondence with Vansittart in chap. xiii. of the Memoirs.

† "My letter was sent to him to his house in town, 12th August, 1802. His letter to Sir C. Bunbury is dated 19th August."

indeed, to open either of them like the little one to fearless honesty, but, however, to drive gentlemen upon this fresh and *speaking* attempt at evasion, instead of their former *silence.* I see enough to put them upon employing the time they think they have thus gained: upon employing it, and even in good earnest, in holding *councils of war* about the job, with those from whom they received it; and in those councils considering which of the two repugnant engagements it were best to break definitively, (the original legal engagement, or the last in the succession of illegal ones:) and in the former event, (being the most probable one,) by what kind of botchery the breach may be best cobbled. It is to this that his lordship's mind is '*at all events*' to '*apply*' *itself*: for if it had any more straightforward, any less crooked object—what should have hindered its applying itself to it near a twelvemonth ago,* upon the spur of those impressions which even then it found its convenience in pretending to have received? What *has it been* applying itself to all this while?—what *is it* now applying itself to? What was it *put for* where it is? What did it take the sceptre for from King Log? Was it to give him a King Stump for successor?

"In November last, at the latest, (how much earlier I know not,) Lord Pelham thought New South Wales a bad thing; he thought the Penitentiary plan a good thing. At that same time he knew (for all his industry could not prevent him from knowing) that it was his duty to see to the carrying of that good thing into effect, without a moment's further delay; and that every day lost to it was not only a day of fraud, corruption, and injustice, but a day of contempt and disobedience to Parliament. And now it is, that at the end of nine months from that time, after promise upon promise, and neglect upon neglect, and after receiving papers upon papers, the object of which was to render it no longer practicable for him not to know what he could not but know already,—now when the post of neglect and ignorance is no longer tenable,—now it is at last, that he is to '*apply his mind*' to the subject, under the declared apprehension, that any hopes that might be entertained of seeing his Majesty's Secretary of State, and the First Lord of his Majesty's Treasury do their duty, might prove '*false*' ones!

"One thing I should be glad to know, as to the 'present state' of that same noble mind. Is it out of doubt with him, or is it not yet out of doubt, that there is no such virtue in New South Wales, as to quash an imperative law of Parliament, and to rescind the engagements taken in regard to Panopticon in consequence? In the former case, why does he not come forward with his declared support immediately? In the other case, why did he not call upon me for the *proffered* papers, the object of which was to put an end to all such doubts? I mean always to all *pretences* of such doubts? My calculation was—that, for *appearance* sake, at least, his lordship might wish to have it supposed, that it was by considerations relative to the *merits* that his suffrage, if favourable to Panopticon, had been gained: that accordingly he would either *read* or *make as if he had read*, those papers: but in this you see already one article in my *apprehended* budget of '*false hopes*.'

"If, instead of wavering between corruption and incorruption, and to hide his indecision, pretending to be going upon sham errands, while he was sounding the ground, and looking out for loopholes—if, instead of this, he had decided manfully, and taken at once the post of duty, a letter still shorter than ever this short one might have sufficed. There lies the engagement of his predecessor for the 2000 prisoners: there lies the memorial, (I mean the *suppressed* one you put into his hands,) expressive of the terms grounded on that engagement: those very terms, to which the approbation of Mr Long had been whispered over and over again to Mr Nepean, under the determination of not granting

* "December or November 1801, Mr Wilberforce, as he told me in December, had been speaking to Lord Pelham, by whom the sentiments expressed were favourable."

either those terms or any other. To send this memorial to the Treasury, with a letter urging compliance with the prayer of it, *was*, and *is*, the one thing needful on his lordship's part. I mean *officially*, and in black and white: verbal explanations might have been sufficient for the rest. This was exactly the course taken in 1794 by Mr Dundas, to wash his hands of the corruption he saw even then going on, between Mr Pitt and the first of the titled subscribers to his statue. Think not, however, that I mean this as a judgment, altogether *peremptory*, upon his lordship's honesty: but you see, that if the badness of these '*very worst effects*' depends upon the *sanguineness* of my 'hopes,' nothing very serious is to be apprehended. I shall be upon the look-out for you, at the time you have the goodness to mention. By that time, sincerity will have been manifested or disproved. More could not be done by man than you have done: you see I have scarce left myself room to thank you for it, or to stamp upon my gratitude the mark of

"JEREMY + BENTHAM."

BENTHAM TO ROMILLY.

"*Q. S. P.*, *27th August*, 1802.

"MY DEAR ROMILLY,—The enemy begins to squeak. Judge from the following letter.*

"To understand it rightly, you must understand, that the 'papers,' there spoken of, are papers breathing fire and flame, full of scorn and menace. No small part of the spirit which animated them was extracted from a former opinion of yours, defœcated from the *caput mortuum* of croaking and despondency that diluted it. Should their cowardice prove true to me, (heaven knows whether it will or no,) it will raise the British Constitution in your estimation a few pegs.

"Have at 'em again—I follow up my blow: not a moment's respite. Your fresh opinion completes their petrification: it is the head of Medusa staring upon them from Minerva's breast. Do not hurry yourself: no immediate demand for the *litera scripta*: the *esprit* of it, like the wind of a cannon ball, lays them prostrate for the present."

SIR CHARLES BUNBURY TO BENTHAM.

"*Chester*, *August* 29.

"DEAR SIR,—Perhaps I have too little suspicion, and you, from the treatment you have met with, too much; but what I know, and what I have heard of Lord Pelham, is much in his favour; and I cannot, therefore, without proof, conceive him guilty of practising evasions and artifices, which would disgrace not only a Minister's secretary, but even his porter.

"Lord Pelham may be, and I believe is, inclined to support the Panopticon system; but he may not have the power to control the adverse opinions of his colleagues in office: and Mr Addington, perchance, may have imbibed the prejudices of Mr Pitt, to whom I have always attributed the delays and vexations you have suffered."

BENTHAM TO DUMONT.

"*August* 29, 1802.

"Now for a bit of an intrigue, worthy of the talents of the *omnium intrigantium intrigantissimus*, the Genevo-Anglo-Gallico, the Reverend Squire Citizen Montaineer.

"Oh but, my dear Dumont, I had forgot myself. I have need of you: it is, therefore, both a bounden and an incumbent duty of mine, to be very civil to you. Therefore, never you mind the abuse in the first paragraph—regard it as *non-avenu*.

"The letter in the other column will inform you of the present state of my expectations in regard to Panopticon: taking with it this explanation, that the papers therein spoken of are letters and other papers of mine, which, though addressed partly to Sir C. Bunbury, were written for the edification of his Majesty's Secretary of State and his colleague, and are as full of fire and flame, and scorn and menace, to Pitt and Portland, &c. &c., Addington himself not excluded, and Lord Pelham half-included, as I could cram them:

* The letter from Lord Pelham to Sir C. Bunbury, above.

and then a comment from me on this very letter went immediately after to Sir Charles, with whom it lies as a deposit, ready to be produced and published *inter alia*, in the character of a prophecy of perfidy, should such be the event.

"You are looked for at Paris, (Romilly tells me,) in September. I am glad of it for divers reasons: this goes by him, and stays with him, till you meet. As everybody is, or will be at Paris, some of the leaders of Opposition will therefore be there: as, for example, your friend, Lord Holland; and, according to the newspapers, even the Coryphæus of the Foxes.

"I have, of late, made a discovery of a piece of villany on the part of Pitt, Portland, and others of the late gang, which, for the sake not only of justice and humanity, (both very pretty things, children of the utility family,) but for the sake of this old constitution of ours, (forgive my weakness, I cannot but confess, that I have a whoreson kind of tenderness that hangs on me,) I should like to see punished.

"Of their multiplied enormities, there are some which are not so completely involved in English grim-gribber, but that you can understand them perfectly.

I. *As to New South Wales.*

"Since the foundation of this penal colony in 1787, convicts have been sent thither under sentences of transportation for various terms—mostly seven years; a few for life; still fewer for fourteen years. This, under a variety of Acts of Parliament—say from twenty to thirty, made for the punishment of so many modifications of delinquency, almost all coming under the head of depredation; nine out of ten perhaps sentenced only for seven years, and more or less of those seven years expired before they were shipped off. In direct breach of all these Acts of Parliament, they have given orders upon orders to their Governor of New South Wales; in virtue of which orders, the convicts, upon the expiration of their respective terms, have been confined there, *i. e.*, destined to be confined there for life: adding thereby to a temporary legal punishment a perpetual illegal one.

"2. To the above illegal confinement and banishment, they have, moreover, added various lengths and modifications of equally illegal bondage.

"3. The unexampled distance from the principal seat of government, added to the particular character of the people to be governed, required powers to be vested in a single hand—powers very little short of pure despotism,—of itself a pretty sufficient reason why no such colony should have been established. Understanding this, and fearing to apply to Parliament for such powers, Pitt & Co. have been all along setting their government to legislate in all manner of cases, without legal power for legislating in any one. Powers for some purpose, and in respect of some classes of persons, he has: but, upon the whole of the mass of power, of all sorts, exercised by him, about half has been illegal: and thereby there is not a creature, that has ever been in any sort of office in the colony, that is not, at this moment, liable to be ruined over and over again by actions at law for what he has done: some, perhaps, liable to suffer as for murder.

"4. Among the destined, as above, to perpetual confinement, are numbers who, instead of the seven years, had smaller lengths of time remaining unexpired when sent thither: some no more than two years: my brother, by application to Lord Pelham, stopped one or two that were on the point of being sent thither as above for life, though perhaps, before their arrival thither, their respective legal terms—the legal part of their punishment—would be at an end. The exact length of time, and the number thus circumstanced, cannot be distinctly mentioned, but would be ascertained in case of a Parliamentary inquiry from the official booker.

"5. In several instances whole shiploads of convicts have been sent out without sending out with them any accounts exhibiting their respective terms: and by this most scandalous, and perhaps wilful neglect, their bondage, as well as their confinement, has been ren-

dered indefinite in duration, not to say perpetual. Their terms expired, when they have claimed their liberty, or have tried to exercise it by getting away, they have been flogged.

"6. So much for criminality on the part of the arch-tyrants here at home: now for punishment. What they have been doing there for these fourteen or fifteen years is an offence, not only against *Magna Charta*, (as per Lord Coke,) but against the Bill of Rights and the Habeas Corpus act. They are liable at the suit of any individual thus confined, (besides damages £500 to the party injured,) to the punishment called a *Præmunire*: a part of which consists of general confiscation, together with imprisonment for life, and the king's power of pardon is in this instance taken away by the same statute.

"The ground of the above statements, as to matter of fact, is constituted partly by private intelligence, but principally by the printed accounts given of the colony by the late Judge Advocate of it, Captain (now Lieutenant-colonel) Collins of the Marines. His first volume published in 1790: a second just come out now, in 1802. He is a professed panegyrist, dedicating his first volume to the ostensible founder, the late Lord Sydney: his second, to the present manager, Lord Hobart: the abominations came out through his candour, partly, perhaps, through holes in his discernment.

"The matter of law has been discovered by me (together with the facts) within these few weeks; and the accuracy of the views I have taken of the matter of law, has received the most unreserved confirmation from Romilly.

"I have ready for the press, *inter alia*, a pamphlet with this title, 'The True Bastille, showing the outrages offered to law, justice, and humanity, by Mr Pitt and his associates, in the foundation and management of the penal colony of New South Wales. By J. Bentham of Lincoln's Inn, Esq., Barrister at Law.'* It is the same (except a trifling part having nothing to do with law) that Romilly has revised for me.

"Were I to publish now, before Parliament is in readiness to do anything, the great probability is that the colony would be in a flame: for ships are going thither, not from hence only, but from America and other countries, frequently: and as they are ready for revolution, most of them, at all times, without any pretence, *a fortiori* would they be when general independence, on the part of all whose terms were expired, could be seen to have the sanction of the law. If, therefore, I publish at all, it will not be till the meeting of Parliament; because then, and not till then, there would be a power in the country capable of preventing the flame from breaking out, by sending out legal powers.

"Parliament would certainly pass a Bill of Indemnity: so far at least as to save the Secretaries of State and perhaps members of the Council Board, with their respective subordinates, for so many years, from such tremendous punishment. God forbid they should not! But it is something for an Homuncio like myself to put all these potentates into jeopardy, and force Parliament to act: and though Opposition would not be able, if they wished it, to prevent the Bill of Indemnity from passing, yet they might, I should think, make sure of getting the whole official history of the colony laid before Parliament, (it would be the usual course,) and thereby expose their enormities, at any rate, to public shame, and possibly even make them glad to compound for some inferior censure.

"Another pamphlet of mine, ready for the press, will have some such title as the following:—'Panopticon *versus* New South Wales. Showing the complete and incurable repugnancy of the system of penal colonization to the several ends of penal justice, as contrasted with the degree of perfection in which the same objects are provided for under the Penitentiary system, kept in suspense for these eight years by corrupt influence, in contempt of an imperative law of Parliament, and a long train of engagements grounded on it.' This, having nothing to do with law, Romilly has not

* This was published under the name of "A Plea for the Constitution." See the Works, vol. iv. p. 249 *et seq.*

seen. Though I should agree with Ministry, the substance of it might be published, though with a tamer title, to warrant their proceeding in consequence.

" A third, likewise ready for the press, is, 'Observations on a late exercise of Legislative Power by the Duke of Portland, his associates and subordinates, in contempt of Parliament.'

" For the purpose of obstructing Panopticon, on the 14th of October, 1799, by a letter which he had the unnecessary folly to sign with his own hand, having the two ex-lawyers, his under-secretary King, and his mentor Baldwin, for advisers, (which letter being ashamed and afraid of, they have endeavoured to suppress, though to no purpose, I having a copy of it,) he has fallen into the following impeachable heresies: his doctrines and his acts serving for the explanation and crimination of one another:—

" 1. Professing a determination, of his own authority, to prevent the execution of an imperative Act of Parliament (the one made for me, 34 Geo. III. c. 84) without any reason assigned.

" 2. Professing for the same purpose an intention of crowding the existing jails with such convicts as ought to have been consigned to Panopticon, in contempt of another Act of Parliament, 19 Geo. III. c. 74.

" 3. Assuming by his own authority the power of taxation, by throwing the expense of such convicts upon the contributors to the Poor-rates, instead of the general fund assigned by Parliament.

" To me this letter seems to constitute an impeachable offence. It is in direct repugnance to the Bill of Rights. It appears in the same light to Romilly: though he takes my account of the letter, not having time to examine my argument on the subject of it. Agreeing so perfectly with my other argument, containing a most extensive mass of law, the probability is that he would not find in my statement in the present case any very material incorrectness.

" In case of the present ministry's agreeing so far with me as to fulfil those engagements in which I am concerned, their pride and their incapacity together would prevent them (I make little doubt) from endeavouring to make any such bargain as would put it out of my power to lend a hand towards bringing them, or their predecessors to shame at least, if not to justice. Looking upon their exposure as a very important benefit to the constitution, I would resist any such bargain as strenuously as possible. But lest at the worst I should find myself forced to submit to it, one object of the present letter is to put it out of my own power to deprive the country altogether of so useful an example. If, therefore, any favourable opportunity should present itself, and if you see the matter in the same light as I do, (or do not decidedly see it in an opposite one,) you will embrace such opportunity, my dear Dumont, and with your skill in paving, pave the way for me for a junction with some of your Opposition potentates for this purpose. Even without me, Collins's book, if they have but industry to sift it, would afford them a very good ostensible ground: though having paid so much attention to the subject, and made so many constitutional discoveries in it, which nobody ever made before, their indolence would, I think, find its account in one way or other, in taking the benefit of my industry. Sure enough, through the whole period of Pitt's administration, they never in any instance took ground comparable in strength to this: and unless they have made a vow to the goddess of Folly, to prefer matter of vague declamation to the most perfect legal solidity, they will jump mast high at the first mention of such an opening.

" Romilly, though agreeing with me so completely in all the points of law, yet has no hope of success from any of them. But this despondency arises from a sort of general *tone* of croaking he has given into, and is founded, as he himself declares, on his contempt for the judgment of Opposition, and his persuasion of the imperturbable servility of Parliament. It is not that this particular ground is not strong enough, but that in his view of the public mind on all sides of it—no ground whatever, not even the strongest, would be strong enough.

" You may imagine how clear and

decided Romilly is since he has given me his opinion in black and white, for the express purpose (at my request) of my making any, even the most public use of it. If you find any difficulty about undertaking any of this, he could give you explanation of it: but he not being such an intriguant as you are, I do not wish you to give him any unnecessary trouble about it.

"I have lived too long in this wicked world, and set too little value upon everything contained in it, to think it worth my while to go, cap in hand, to them, or any of them, for this or any other purpose. Neither on this nor on any other occasion should I think, on any consideration, to become one of their gang for general purposes. Neither on this, nor on any other Parliament, or anywhere else, in speaking or writing, would I maintain a single proposition, of the truth of which I were not myself persuaded, to save them all (myself included) from the gallows. Joining, then, in this attack upon the enemy, I should defend him against the very next, if it appeared to me unmerited. As to serving me, if they offer to put it on that footing, bid them go to the devil. What I want is to serve the constitution.

"There are some of them so profligate that, for the sake of making the better attack upon the Ministry, they would be glad to set New South Wales in a flame, and some hundreds of throats cut on both sides, and would spread the intelligence prematurely with that view. This is a danger, for such intriguers as you and me to guard against. I should hope Charles Fox might be trusted for taking the requisite precautions for preventing any such mischief: but you know best, and that others I would not trust. I should think it would chime in particularly well with the rout Charles Fox has always been making about the according to him unnecessary suspension of the Habeas Corpus Act: as likewise the pother that Sir F. Burdett would be disposed to keep up for the purpose of the Election question about his Bastille: had all he said about it been true, it would have been but a mouse-trap to mine.

"Romilly will have it, that neither Opposition, nor the Ministry, nor the public at large, care a straw about convicts—or would manifest any sort of resentment for any injustice that ever has been, or could be done to them. Admitting this, and considering them all as so many logs of wood, that could be made use of as so many clubs to beat the ministry past and present about the head with,—for such a purpose I should think it worth their while to regard these logs as sentient ones, and for the good of the cause to speak of them with the most edifying tenderness. Horne Tooke, I am clear, would sell his soul to ten thousand devils for the satisfaction of contributing to such a means as that of a general massacre in New South Wales. In my hearing he has defended Septembrization, and wished (in a large and mixed company) to see it imitated here.

"If, by any puffing of yours,—and, my dear Dumont, you have a tolerable good hand at puffing, (witness Prefaces to 'Dumont Principes,')—you can puff any of those potentates into a persuasion that by any means they might be able to get a good attack upon Pitt and Co., with the Roses, Longs, and Portlands of the age, you would do this country, I think, and the general interests of justice and humanity some service; and opportunities might present themselves, if not at Paris, in this country, before the meeting of Parliament.

"It would be lost labour for me to attempt to direct your eye to this, or that, or t'other man, as a likely person: all this will be as much in your eye, and much more in your knowledge, than in mine. If Lord Henry had stuff and spunk enough in him for such business, would it not be a good commonplace declamation topic enough to bring him into notice. N.B. It is that sort of thing that might be taken up in either House.

"If by accident you should light on anybody, and excite his concupiscence, do not let him come to me abruptly to satisfy it; but let me hear from you first to prepare me.

"I see a somebody has begun puffing in the *Moniteur* at last, who I hope and

suppose is Gallois, according to your word. But the wretch has not put his name. Why not? Is he afraid of being sent to the Temple for it—your new Bastille?

"I wish to God I could steal over the herring pond to you for a week or two; but just at present it is not to be thought of.

"Sir Charles Bunbury has offered himself to make mention in Parliament as to anything that concerns me personally. I may possibly beg of him to make a motion for the publication (by the House) of some documents suppressed to my prejudice,—to wipe away the imputation that was endeavoured to be cast upon me by Rose and Long, as if it had been my fault that Panopticon was not set up, inasmuch as I had insisted upon an increase of terms. The point seems trivial: but as it was a most gross lie, and the refutation of it would bring to light a most dirty fraud on their part, the idea of such a thing struck terror into them before, and would distress them beyond measure upon the revival of it.

"What am I writing all this to you for? You are a dead man: and the proof of it is my never having received a syllable from you in answer to the letter I had the credulity to address to you to Geneva *poste restante*, upon the faith of your perfidious assurances.

"Adieu, my dear Dumont; be a good boy and write to me."

BENTHAM TO CHARLES ABBOT.

"*Friday, 3d September*, 1802.

"If, on grounds purely public, or at any rate completely exclusive of all private regard for me, you cannot find sufficient motives for taking upon you the mediation I venture to propose, I neither ask, nor so much as wish you, to think of it on any other. You will see presently what it is I look to you for, and why.

"I. In the course of my researches, for the purpose of the narrative I have of late been employed in drawing up, containing the history of my transactions with Government on the Penitentiary business,* it is but very lately that I have been led to the subject of *New South Wales;* and, to my unspeakable astonishment, as well as that of my eminently learned friend, to whom *ex majori cautelâ* I have applied as counsel, I have made the following discoveries:—

"1. That by orders from hence, *Expirees* (convicts whose terms are expired) have been forcibly '*detained*' there—not *individually* only, and for *special* cause, but *collectively*, and for an indefinite time—and with the evident intent of adding to the expired *legal* punishment, a *perpetual illegal* one: and that, by so doing, all persons concerned in such illegal orders are liable to the penalties of the *Habeas Corpus* Act, (31 Car. II., c. 2, § 12,) including a *Præmunire*, ousted of pardon by an express clause.

"2. That, to this *false imprisonment* have been added in many, perhaps in most instances, various lengths and modifications of *illegal bondage*.

"3. That, in many instances, this complicated and perpetual illegal punishment has been made to attach upon convicts who, out of a term of seven years, had served five years or upwards in a jail or hulk before they were sent out. [My brother, by representation to Lord Pelham, saved one or two orderly and useful men, whose punishment in New South Wales would scarcely have commenced before it had become illegal.] Beyond the five years I cannot speak with certainty as to *times:* but the office-books *will* show, or *ought* at least to show.

"4. That in repeated instances, whether by negligence, or (as the *repetition* would indicate) by design, the accounts establishing the dates of expiration of the respective terms have been omitted to be sent to New South Wales: whereupon the presumption, instead of being '*in favorem libertatis*,' has been *in favorem servitutis*—in favour of the perpetual servitude thus created.

"5. That, whereas the powers legalized by the several New South Wales

* Title, *Picture of the Treasury*, &c. &c.

acts are extremely limited, an absolute and illegal power of legislation has all along been exercised by the sole authority of the Governor there: always under the eye, and, in many if not all instances, according to 'Instructions' of persons here at home.

"6. That, of the several acts of authority that have been exercised in that colony, from the foundation of it to the present moment, a great part have been contrary to law: and that in respect thereof, many, perhaps all persons, that are or ever have been in authority there, remain exposed to ruin by actions and other persecutions.

"All this is set forth in detail, in a paper which, though in substance a law argument, wears at present the form of a letter addressed to Lord Pelham, to whom, in his quality of Secretary of State, I had begun addressing my Narrative:* designing to have sent the whole in manuscript, and not suspecting the bulk to which I found it swell, as I went on with it. The sort of spirit it is written in, is that which would naturally be called forth by the enormities displayed in it; and is purposely preserved, in the view of exciting, in the public mind, that attention which would be necessary to the applying to the grievance whatever may be the proper remedy. It occupies fifty-six pages. Of the substance of it a tolerable conception may be formed by the *marginal contents*, as given in the table herewith sent. Neither Lord Pelham, nor anybody else but Romilly, has as yet seen it.

"II. So much for *law*:—*policy* forms another topic. By deductions drawn from analogous experience, and (so far as *economy* is concerned) by the facts and calculations given by the *Committee of Finance*, I had been led to the persuasion, that the institution of the penal colony was from the first, and will be to the last, in a state of radical and incurable repugnancy to every one of the points that were or ought to have been the *objects* of such an establishment:—to every one of the *ends* of penal justice:—*example*—*reformation*—*incapacitation* for fresh offences—*compensation* for injury by past offences—and *economy*.

"From the first volume of Captain Collins's Journal,† added to other unprinted but not less authoritative accounts, these preconceptions had received already very ample confirmation. A continuation of that history, to the time of the latest accounts, has just made its appearance: and the confirmation, received from this latest testimony, is ample and conclusive, to a degree beyond what I myself could have imagined.

"From the time that the illegality of the government of New South Wales was known in New South Wales, what strikes me as not very improbable, is—that all subordination—all government there—would be at an end, unless Parliament were to give it that legality which is at present wanting: but, that Parliament would not give it any such sanction, on any other terms, than the putting an end, as soon as may be, to a system thus replete with misery and wickedness: diseases both incurable—both raging in a degree without example. Were I as insensible to human misery and wickedness as the founders and maintainers of that scene of abominations have shown themselves for so many years, I should publish immediately: and, as the bulk of the inhabitants, indifferent to life and death, are ripe for insurrection at all times, and without any pretence,—*a fortiori* would they be so, when general independence, on the part of all whose terms were expired, would be seen to have the sanction of law: and, though the intelligence might be prevented from being carried out from home directly in Government vessels, yet, from various *other* countries receiving intelligence from *this*, vessels are going at all times.‡ So much for what might be: being as I am, you may perhaps think it superfluous for me to say—that it will be my care not to let any information transpire of the disorder, till Parliament is in a condition to apply a remedy.

"In some eyes, a degree of ridicule

* See Panopticon *versus* New South Wales, in the Works, vol. iv. p. 173 *et seq.*

† 4to, 1798.

‡ II. Collins, 316, Table of Arrivals.

might attach, to the idea of keeping secret what has been in print these four years. But (besides that, to the ignorant, the preoccupied and the incurious, publication of needles in bottles of hay is no notice) to you it can be no secret, that in law as in chemistry, results altogether new may be produced, by new combinations of old elements.

"Of the pamphlet on the question of *law*, the short title is—THE TRUE BASTILLE: &c.: of the other, on the question of *policy*, PANOPTICON *versus* NEW SOUTH WALES: &c. Of this last the Table of Marginal Contents has been in the hands of Lord Pelham since the 12th.

"III. In the course, and for the purpose of the intrigues, of which by and by, the Duke of Portland, by an unusually self-signed letter,* with Mr Baldwin for his counsel, and Mr King for his scribe, was ill-advised enough to avow, in an address to the Treasury, the following designs and practices:—

"1. Putting, of his own authority, a *professed* negative, upon the *sole* object of the imperative provisions of the Penitentiary Contract Act.†

"2. Filling the country jails with Penitentiary prisoners, in direct contempt of the original Penitentiary Act.‡

"3. Assuming, as well as exercising, of his own sole authority, the power of taxation, by throwing the expense of convicts upon a fund of his own choosing (the County Rates, *i. e.* the Poor-Rates) instead of the general fund, on which, by the Penitentiary acts, those expenses were charged by Parliament.

"Other similar heresies I pass over, as requiring too many words to state them. And he not only quotes distinctly by their titles the two acts, the provisions of which he thus abrogates on the declared ground of their being '*very inexpedient*,' but says of them in so many words, '*I have examined and understand the object of*' them.

"Of this letter a copy was refused me by the prudence of Mr Long, but I obtained a sufficient *extract* by imprudence elsewhere. Another publication in readiness for the press, is a pamphlet written upon the strength of this letter, for the purpose of inquiring who is the Sovereign of this country,—the King in Parliament, or the Duke of Portland. It is a point to be ascertained, what the *House of Commons* will say to a power thus exercised by a servant of the crown,—a single lord of Parliament,—over the public purse. Title,—'*Observations on a late exercise of legislative power by the Duke of Portland, in declared contempt of Parliament.*' With the details of this less serious and more debateable business, I will not attempt to trouble you (unless you call for them) no more than I have Romilly. Taking it upon the face of my statement of it, (a statement drawn up in writing, and with great care,) *he* makes no difficulty in speaking of it (in writing) as containing impeachable matter, whatever may be the uncertainty, in which decisions on questions of this sort have been commonly involved by what is called *politics*.

"IV. In the agony of their distress, the late Treasury, when called upon to show in their '*Proceedings*,' why nothing was done about Panopticon, were desperate enough to speak of a pretended 'increase of terms'‡ as the cause. It was not a misconception: it was a studied, long-premeditated, elaborately-prepared falsehood: a grosser, a more transparent one, was never uttered. It was so gross, that the man, whoever it was, that first broached it, was afraid to put his name to it. It stands in the printed '*Proceedings*,' in the form of an *anonymous* communication! I have looked over these '*Proceedings*' carefully: (your kindness gave me the means.) In the whole pile of them, there is not another such example: for it is not given as a '*Minute*,' of the Board. The more direct utterances of the same falsehood, contained in the '*Proceedings*,' forced into day by the change of Ministry,§ were destined for

* 4th October, 1799.
† 34 Geo. III. c. 84. ‡ 19 Geo. III. c. 74.

‡ Further Proceedings, 15th July, 1800, p. 50, No. 9, dated "Treasury Chambers, 14th July, 1800."
§ 12th June, 1801, No. 9, pp. 79, 80, 81.

eternal night, and by express order most studiously concealed from the man whose conduct they were libelling, and whose fate they took upon them to dispose of. Anything they had ever received from me on the subject would have disproved the falsehood: and, therefore, everything they have ever received from me was suppressed. I wrote immediately to Mr Hiley Addington, stating the injury, and praying publication of the suppressed documents for redress; saying, *I* must publish, if *they* would not. Mr H. Addington was frightened: Mr Long was frightened: to divert me from that claim, they drew me by a trick into an unexpected conference,* the object of which was, to make me hear a *sham* offer they had to make to me. The very nature of the offer showed me at once it was not intended to be realized: the event has proved as much. The cover given to it, was an affectation of extreme surprise at my perversity, in pretending not to understand the same offer to have been already made in the last official letter to me.† That letter bound them to nothing as to one half of the offer, (the reduced number of 500 convicts, instead of the original number of 1000, and the augmented number of 2000,) and put a clear negative on the other half,—viz., compensation for the difference. What passed at the conference is as curious as the contrivance for producing it, and, in the sketches of Treasury morality, would make a picture of itself. Some allusions to it are in a paper already in the hands of Lord Pelham. *They* got nothing by their stratagem for parrying the demand: *I* got nothing by the demand itself; unless it be the opportunity of observing, how sore they were in the place it touched them in. In saying *I got nothing*, I mean *at the time:* for, in the long run, together with an additional motive, I have obtained an additional *ground*, for applying by *Petition* to the new Parliament, for relief, against insinuations having the effect of defamation, (for the injury done to me by it was a serious one,) and *suppressions* having the effect of *forgery*. If, on my petition, the House does not publish, (I mean, call for the suppressed documents, and order them to be published,) *I* do: to publish a correspondence between the Treasury and myself, is no offence against the House. But what (saving your better judgment) *is* an offence against the House, is, reporting to it *anonymous* falsehoods, instead of authenticated facts.

"V. You have no more forgotten than I have, your opinion of Mr Pitt's treatment of me, as declared for his edification before *Mr Rider* at the *Committee.*‡ The 'barbarity' was then not more than a barbarity of four years. It has since been doubled: in duration I mean: but in multiplicity of acts and variety of engines it has been swollen and improved to a degree that would astonish you. The underhand practices, —the system of long-spun and elaborate, yet always transparent treachery, concerted,—sometimes between the two floors of the Treasury, sometimes between the Treasury and subordinate offices,—form such a history, as I cannot think would be altogether without interest to the public, or even to Parliament. It cannot, if there be any the smallest spark of regard in either, for probity and good faith, in the head-quarters of the state.

"1. The assurance, without which I refused to meddle with the then proffered, and since purchased land,—the assurance that no opposition on the part of Lord Belgrave should prevent the application of it to the public use, (Lord Belgrave, a mere neighbour, having no interest in the land,) the assurance given me, in the most energetic and apparently *confidential* manner, by Mr Long: thereupon a promise (of which I have proof) given to Lord Belgrave, that the land never should be applied to that same use. The existence of this perfidious promise assumed over and over again, by myself and others, in black and white, as well as in conversations with Mr Long: and Mr Long never attempting to excuse it, nor daring to deny it.

"2. Care taken that the £12,000 pur-

* 9th July, 1801.

† 24th March, 1801.

‡ June, 1798.

chase-money should be received by Lord Salisbury: care taken at the same time that the £1000 known from the first to be necessary to the application of the land to its pretended public use, (viz., by buying out remains of leasehold terms,) should not, nor any part of it, be ever received by *me*. The £12,000 not suffered to pass through the hands of me, (the feofee,) who was to acknowledge the receipt of it, lest the deficiency of the necessary and promised £1000 should be perceived by me: my signature obtained to a *false* receipt—a paper acknowledging the receipt of it—obtained by a contrivance. The very possession of the leases, as well as the title-deeds, endeavoured to be withholden from me: the possession of the land (such part as could be withholden) withholden from me to this hour, in spite of all remonstrances, viz., by the withholding of the money for the purchase.

"Assurances that orders had been issued for a warrant for that money, as in fact they had been issued, and a *Minute* made accordingly: those assurances given to me, and in the same breath measures taken for preventing the money from being ever issued.

"3. The very species of misconduct that furnished the sole pretence for breaking the public faith with *Mr Palmer*,—(the having conceived, under the agony of provocation, the momentary idea of throwing confusion into the public service in that *subordinate* department)—that very species of misconduct, adopted and practised in the department *paramount*, in cold blood, for the purpose of the breach to be made in the public faith as plighted to me. Confusion and insubordination purposely organized: subordinates encouraged in declared contempt of the orders of the Board: encouraged in repeated instances, and in different offices, and after full notice of the contempt by written complaints from me. Facts and arguments, forming the ground for the orders of the Board, kept back from subordinates; lest they should be deterred from the opposition they had been instructed to make. Engagements sanctioned by Minutes of the Board: these engagements broken to my prejudice—broken without apology or explanation, under the observation of the clerks, and other witnesses of the transactions of the Board.

"4. Attempts to render me an instrument of oppression (and much vexation, in spite of my indefatigable labour to prevent it, actually caused) to *twenty* unoffending families, (inhabitants of houses in the purchased land,) for the purpose of the ruin in which it is hoped they would involve me by suits at law. Instead of the promised £1000 for buying out these and other interests, (a price at which, after Lord Salisbury had offered, I had offered to bear the expense,) an order obtained from the Board, directing me to inquire into the compensation requisite, with an advice from their solicitor to insist that the evacuation of the premises should be '*absolute and immediate*':—that order obtained, under a determination, *never* to give me possession of the premises—never to give any money for the compensation; the damage thus swelled, from the above-mentioned single thousand, to *several* thousands, in spite of the most indefatigable exertions on my part to keep it as low as possible: recorded exertions, testimony of which I have been careful to preserve. All this in spite of, or rather by reason of, the most strenuous remonstrances on my part, remonstrances in writing, exhibiting the mischief in all its features. Of the insidious refusal of the promised £1000, one evident motive was—the hope of driving me (for I was not to be led) into this snare.

"5. To blind me the more effectually, and at the same time involve in the more certain ruin, my character by the appearance of their own ill faith, my fortune by litigation, and my health and peace of mind by vexation and disappointment —a sham treaty carried on all this while —carried on for a matter of a twelvemonth—for other necessary contiguous land: the proprietor a gentleman of fortune but under temporary difficulties, (Mr Wire,) disturbed by the fraud in his economical arrangements, and to my *knowledge* materially injured in his fortune.

"6. Letters upon letters from me unanswered and unnoticed: personal access, eluded for months, at last openly refused. From the time that, for the accommodation of Lord Salisbury, (himself innocent and irreproachable,) I was deluded, as above, into the acceptance of his estate,* scarce in a single instance a fair audience of Mr Long. Three weeks, without the intermission of a single day—three whole weeks, on one single occasion—I remember passing in the passages: and when at last Mr Long was pleased to send out a refusal to see me, it presented itself to me as a favour, because discharging me from my attendance. Wanton and unprovoked insults were what I got from Mr Rose, when attending him for the fulfilment of the prospects *he* had held out to me: they were put an end to, prospects and insults together, by a refusal to see me any more. Not to speak of clerks, whose civility to me had real merit in it, I owe it to the kindness of the porters, that I received no insults from *them*, after the treatment they saw given to me. All, without so much as the *fancied* shadow of a complaint against me: as Mr Long, before witnesses, and particularly at our very last interview, has been forced repeatedly to confess. In the midst of all these transparent frauds—under all these barbarous oppressions—not a single harsh word on the part of the patient—in conversation or writing, towards a single individual among his oppressors of all ranks.

"More of this—I know not how much—might be added. I spare it you:—I spare myself the hunting for it. If *this* be not enough, what *else* can be?

"Panopticon (it is obvious enough) is not the more *beneficial* a system for any scrape into which its adversaries may have floundered. True: but neither is it the *worse*. Against it, scarce an expression of vague dislike, much less anything in the shape of a specific objection, has been ever urged, that I could ever hear of, by its most determined adversaries. No man has ever yet been hardy enough to deny, though the calls for denial have been perpetual, that the sole causes, of the sacrifices so often made of it, have been the successive compliments paid to the train of successive lords, ending with Lord Belgrave.

"For my *petition*, I mean to avail myself of the offer of Sir C. Bunbury: he having been the first to mention Panopticon to Parliament,† before Mr Dundas came forward with his panegyric. Wilberforce must either help to pour shame upon the heads of his friends in both ministries, or desert his own opinions and belie his feelings, not only as declared to myself in black and white, and that very recently, but declared for years to all sorts of persons without reserve. Be the prayer of the petition granted or refused—all the perfidies—all the treacheries—all the oppressions—all the corruption—all the disorder—come out of course. For the constitutional points (without yet knowing the particulars) a person out of all party, but above all party, and of no small account—particularly in points of that nature, has promised in a letter I have by me, a 'strict attention' to the business. Having tried nobody else yet, I have met with no refusals. Of the Opposition, of whom I know nothing, I leave you to judge. Who can say? The same spirit, which has so lately brought upon the head of Mr Mainwaring a punishment which (judging from the Report of the Commissioners of the Crown, and the confession of one of those who voted for him along with you) I cannot look upon as altogether unmerited: may it not give some trouble in its call for punishment—not of Mr Pitt, or the Duke of Portland only, but even of Mr Addington, for *connivances* so much more culpable?

"The opinion of Romilly was not lightly given. After a consideration of some weeks, it was first given *vivâ voce*. I resuggested the points that seemed most novel or least clear. An inconsiderate opinion might have hurt both of us. I told him there might be

* December 1798.

† See Debate. 31st May, 1793. Parl. Hist. xxx. 956.

occasion for me to make it public. He kept the papers: and, in a letter written for the purpose, on the point of his departure, found he could do neither more nor less than say—'What you state respecting Botany Bay has very much astonished me. It has the more astonished me, *because I take the law upon the subject to be* EXACTLY *as you have stated it.*' The marginal contents are not sufficient to enable you to form an opinion of your own: but they show upon what points it would have to turn. I would not load you with the paper at large, (56 pages.) It is at your command, of course, at any time. Romilly is for the Crown on the question of the Prince of Wales. *White* was beforehand with the Prince's people in retaining him: and the Prince himself has expressed his disappointment at it. The spirit of self-delusion might have suggested this, and that, and t'other, in relation to a man who, though no party man, was no greater an admirer than myself of the late Ministry: but this *works by estoppel.* You probably know better than I whether, for some time past, he has not been by far the first man in the Court of Chancery, though originally more conversant in the common law.

"Upon the whole, in regard to Mr Addington, my calculation is—that (even setting aside all danger to his friends) he would find it less trouble to break at once the corrupt illegal promise, than to persist in breaking the legal one:—to establish a system of certain reformation, than to maintain, by waste of public money, a system of unexampled and altogether remediless abominations.* Should *his* calculation agree with this of *mine*, *he* will act accordingly: should *yours* agree with it, your regard for his honour, still more for the honour of Government as bound up with it, will, according to *another* calculation of mine, afford you a sufficient inducement to apprize him of your sentiments to that effect.

"The ground upon which these prospects, such as they are, are built, is not the most flattering of all others to Mr Addington: but it is he that has driven me upon it. Before trial, I looked up to him with the firmest confidence. The margin† refers to a most faithful picture of it. Nothing short of experience, nor even that for a long time, could wrench it from me.

"On that occasion, Mr Addington's probity failed him, and with it, as is but natural, his courage. Though Mr Nepean was my evidence, or rather because Mr Nepean was my evidence, he durst not hear my evidence. As little durst he refuse to hear it. He set his brother to shuffle with me, as you may see. My '*representations*' he had no objection to receive; because a paper the more upon his shelves would not give him much trouble. From Mr Nepean, *though* (I mean always *because*) the only person from whom he could have got any correct and honest account of the secret part of the business, that is, the dregs at the bottom of the dirty and dishonourable part of it, he could not bear to hear anything about it: because, having every now and then occasion to face Mr Nepean, and being known to Mr Nepean to have had notice of the business, with more or less of the perfidies, and treacheries, and oppressions, and corruptions sticking to it, in Mr Nepean he would as often have to face a man who would behold in him a privy, and by adoption a party, to so many scandalous enormities.

"The maxim Mr Addington has hitherto found it convenient (as he thinks) to take, upon this as upon other occasions, for his guide, is—that *Mr Pitt can do no wrong:* and it is that he may not be obliged to part with it, that he has taken for his model, the judge I have just been reading of in a newspaper, who would '*never suffer more than one side of a cause to be heard, because both sides* (he said) *confused him.*' The side that gave him the support of so useful, not to say necessary, a friend, presented itself to his *prudence* as the side of safety. The *example* of such a predecessor—of such a possible successor—presented itself to his *probity*, as an advantageous

* "Not that there is, or ever has been, any incompatibility: with equal complacency, if he finds it most convenient, he may support the bad and the good together."

† Some note appears to be wanting here.—*Ed.*

substitute, to the dictates of law, public policy, and justice. My case being among those, which by the law itself are put out of the protection of the law—and Mr Addington's station in it being that of a *judge*, but with a power much more boundless than that of any judge so called, the injustice of his conduct, is by so much the more efficient, than that of the very considerate magistrate just mentioned.

"Mr Addington's hope *is*—what Mr Pitt's hope *was*—to see me die broken-hearted, like a rat in a hole. I may die any day: but so long as perfidy, and treachery, and oppression, and corruption, and arbitrary power, and contempt of Parliament, and the persevering propagation of immorality and misery are the order of the day with him, so long as I live he will find me living to his annoyance. Living did I say? Yes: and even when I am dead, he will not be rid of me.

"Being no longer *hare* but *hunter*, the spirit that animates hunters is come upon me. By leaving me nothing to do, of that which I ought to have had to do so many years ago, he leaves me no other mode of serving the public so efficient or impressive, as the reading of that moral lesson which will be read to it by the uncovering of his shame.

"My demand is an extremely simple one:—that an engagement of one-and-a-half year's standing, entered into after seven months taken to consider of it, may be trampled upon no longer:—that, according to that engagement, prison-room be given me for the 2000:—terms to be grounded on it, as per Memorial settled by Mr Nepean—principles assented to, over and over, in conversation with *him*, by Mr Long. The number to be secured to me, no more than the original number, 1000:* for anything beyond that number I neither asked any engagement, nor would have accepted it, had it been offered.

"For taking the least bad course that can *now* be taken in relation to New South Wales, he might perhaps in this case find his account in consulting a man, who is not an utter stranger (as so many have been) to the subject, either on the chapter of law or policy—who is not above taking trouble on any subject, nor above looking upon these outcasts as fit objects of his care.

"Lord Pelham's letter does not satisfy me. You may see why it does not. It *may* be sincere, but though I were sure of its being so, I could not trust to it. It binds not Mr Addington. It is much less than I got from Mr Dundas, in his lordship's place, on the occasion of Battersea Rise. *Time* begins already to show the value of it.

"In any declaration he might make to *you*, though it were but a verbal one, so it were a specific one, he knowing you to be in possession of the case, I might venture to have confidence. Why? because it will never be in his power to 'fly from *your* presence,' as he might have done for the most part from Mr Nepean's. As often as he looked up to you in *your chair*, with those professions of probity upon his lips which will be so often called for from *his place*, your eyes would bear witness against him, if he were false.

"This is my last *private* attempt, to drive into the head of Mr Addington the sense of justice. Should this pass unnoticed, or prove fruitless, *the die is cast*. If I hear nothing from you before the 13th of this instant September, 1802, this being the 3d, I shall no longer look for it. On that day it may be necessary for me to take steps that may be irrevocable. Time passes, and presses. I must not lose the commencement of the approaching Session, as Messrs Addingtons made me lose the remainder of the Session of 1801."

BENTHAM TO CHARLES ABBOT.

"*7th September*, 1802.

"I had been used from time to time to send Panopticon progress to Wilberforce. August 27th, I sent him the correspondence with Sir C. Bunbury, and Lord Pelham's letter, and the marginal contents of Panopticon *v.* New South Wales: Sir C.'s last letter ex-

* Draught of Contract, 28th Finance Report, appendix.

cepted, which did not come till afterwards. Yesterday he returned my packet with a long letter of four sheets.* The remarkable feature in it, and the cause for which I mention it, is this: the most material and striking article of the packet lying before him, was this letter of Lord Pelham's, in which his lordship says:—'At all events . . . I will endeavour to get something settled before the meeting of Parliament.' Yet with this before his eyes—all his good advice — all his projects, assume that nothing at all will have been settled before the meeting of Parliament. To get it settled, such and such things are to be attempted (though with a chance of success which he scarce ventures to give as more than a faint one) in Parliament. This assumption of his, to what cause can it be imputed? Was it that he thought Lord Pelham would not so much as make any attempt? Was it that he *thought* it would be unsuccessful? Was it that he *knew* it would be unsuccessful? viz. by having communicated on the subject with Mr Addington? The latter is a matter of fact which might have been a material object of inquiry, if my time admitted of the making of it. Meantime, of these three interpretations, between which Mr Wilberforce did not look upon it as worth his while to distinguish, one at least supposes that sort of conduct, which, in Sir C. Bunbury's more frank and open estimate, 'would disgrace not only a Minister's secretary but his porter.'

"The uniformly honourable character which, as far as my obscurity would admit of my hearing anything, I had always heard attributed to Lord Pelham —this, added to the marks of candour on his part that seemed to transpire through the debates, would have led me to place as much confidence as my experience of those offices would admit of my placing, in so positive an undertaking on his part as the above, had it not been for his expedition of discovery for 'finding out what steps had been taken by the Treasury.' What, if anything, had been done there legally and above board, the Minute-book would have shown him at any time in half an hour, out of the week he took to give his answer. The only possible matter of discovery the case afforded, was, any such clandestine and dishonourable, and unavowable and unavowed assurance or assurances as that which had been given to Lord Belgrave. Far from being matter of triumph, it is matter of most serious concern to me, to find those suspicions of mine receive already so much apparent confirmation.

"There are two things I could not get either Mr Long or Mr Hiley Addington (at the conference they entrapped me into, 9th July, 1801) to speak of, as possessed of any the smallest binding force: Acts of Parliament, and the engagements taken by men in office, in consequence: nothing could equal the scorn with which the idea was received. Wilberforce, notwithstanding the probity of his own conduct, seems to have entertained all along a sort of implied notion to the same effect, derived, doubtless, from that practice, which, on the part of Messrs Rose and Long, (and perhaps Pitt,) he must have had so many occasions to observe. I cannot, antecedently to experience, bring myself to think that these notions will find approbation with the public at large. I am sure they do not among *all* placemen. Sir Evan Nepean, at any rate, is an example.

"Next to the setting up of Panopticon, which, if I were to live, might enlarge my opportunities of being of use in one way or other, I cannot think of anything by which I could do more substantial service, than by exposing a line of conduct which seems at present to be endemical and habitual, in such manner as to render it if possible no longer tenable.

"Wilberforce, however, amongst other good advice, preaches passive obedience, and non-resistance for this one session, giving me a dispensation for hostility should this prove fruitless: and in the meantime, recommends that Botany Bay should be exposed in a quiet way, and

* See Wilberforce's letter in Ch. xiv. of the Memoirs.

on the ground of immorality only, I mean without blame to anybody: for which he offers *aid*, which, if I understand him right, is by communication of facts. He, however, knows nothing of the *præmunire*, and the illegalities and tyrannies connected with it. Not that I shall take his advice: my own experience runs uniformly counter to his theories. I have found the principle of terror operate in several instances, and no other principle in any. He is all in a flutter about his friends: he does not himself think they will do as he is convinced they ought to do, and he dreads the seeing them exposed for it. He shuts his eyes against the facts: and then imagines excuses for them incompatible with the facts, which, from the first, so far as they tend to imputation, he has never been able to bear to look at—or at least to own the looking at them. It is natural enough that he should be for laying law and engagement out of the case, because those topics cannot be handled without imputation to his friends: it is equally natural that I should not part with strong ground, and confine myself to weak ground, for the accommodation of those who have made a point all along of keeping me to that weak ground, that they might crush me at their ease. Not that he is indifferent to Panopticon, for he talks of it all the while like an enthusiast."

BENTHAM TO DUMONT.

"*Q. S. P.*, 19*th October*, 1802.

"MY DEAR DUMONT,—I got back here (at night) last Saturday fortnight, the 2d instant. On the next day, (Sunday,) understanding from my brother that Sir Evan Nepean had mentioned his having had two interviews on the subject with Mr Addington, I called to hear particulars. What was said, (or at least what was reported to me as said,) was chiefly on Nepean's part; and consisted principally of testimonies in my favour; added to what he had said, and was ready to say, to Pitt, Long, &c., as to what he thought of *their* conduct in the business. Addington appears to have said little. He touched upon that article in my 'Proposal,' in which I engage to pay a limited sum in the event of a subsequent offence committed by a convict that had been under my care: he was pleased to term it '*one of my flights.*' In *fact*, it amounts to no more than a *partial*, not a *total*, deduction of a *profit* that would result to me from the same incident: but this is what few are either able or willing to perceive. In default of all solid objections, it serves people for the shadow of an objection on the score of quackery. In the pamphlet I have sent to the press, (Panopticon *versus* New South Wales, of which afterwards,) I offer full explanation to the above purport, to any one who will vouchsafe to look at it. He concluded with saying that he had not made up his mind on the business, and that it was his intention to turn it over to Mr Vansittart. I wrote accordingly on that same day to Mr V., telling him of what I had heard as above, and apprizing him of my return, which he might not otherwise have heard of: but I have heard nothing from him as yet.

"In addition to the letters mentioned above, I found one from Sir Charles Bunbury, dated 30th September, in which are these words: 'I saw Lord Pelham, and desired he would send to you, and inform you what steps he intended to take in the business of the Panopticon prison: he said he would, as soon as he had read through your books, *and conversed with the Chancellor and the Judges on the subject.*' Looking upon this as an evasion, I considered it as calling upon me, upon the principle of self-preservation, to tell my story to those same personages. I have accordingly sent to the press '*Panopticon* versus *New South Wales*,' *&c.*, in the form of a letter to Lord Pelham, stating the above intimation of his as the occasion of my taking that method of multiplying copies for the edification of the said personages.

"To return to Nepean—as far as *he* was concerned, nothing could be more satisfactory than the short conference, which was all he could, or at least thought proper to allow me. He gave me to understand, that, for a long time past, he had set down in his own mind as a

contingency not very unlikely to happen, the bringing the business before Parliament: that he had kept himself accordingly in preparation, and was ready at any time to give his evidence. In my above-referred-to letter to Mr Addington, written to him very soon after his accession, and commencing with the averment of its being written with the privity of Mr Nepean, I gave him sufficient intimation that Nepean's evidence, wherever and whenever given, would cover with shame Mr Pitt and his subordinates.

"What made these assurances of Nepean's the more satisfactory, was—that for one and a half year, I had never set eyes on Sir Evan Nepean. He began with explanations in the form of reproaches for my invisibility, &c.—which produced counter explanations on my part, and were followed with the strongest assurances, that, in respect of affections, as well as of opinion, he remained unchanged. What an opportunity for Opposition if they have but the understanding to improve it! Had they ever anything like it before? A man of Nepean's impregnable and popular character, having not the least personal quarrel with either the present people or the past, ready to stand up against both for the pure love of justice!

"One thing I had like to have forgotten—a caution on the part of N. to avoid acting through the very channel through which what was done had been done. His hurry, real or affected, prevented me from getting an explanation of the grounds of this caution, on which he appeared to lay a considerable stress. Public situation, or character, and disposition as towards myself—which of these circumstances had he in view?

"On your part, my dear Dumont, you will not fail to feel the extreme delicacy that attends the communication of a correspondence of such a nature with such a personage. No security can be too great that can contribute to ensure the preventing it from coming round. In fact, you will indeed perceive that nothing could be more guarded, on *his* part as well as mine: armed on both sides *cap-a-pied.* But, in case of a disclosure of this sort of confidential correspondence, how convenient a pretence to the great man for shaking off, and even openly turning against, the troublesome little one!

"Not the least curious incident in the business, is a correspondence on the subject with Wilberforce. I had been used from time to time to send him reports, under the title of *Panopticon Progress:* a little before my trip to Paris, I sent him one on the occasion of the intercourse with Lord Pelham, through the medium of Sir Charles Bunbury. Thereupon, on my return, I found a letter of his of four 4to sheets, half of it taken up with apologies about haste and so forth. Agonies of terror about my threatened narrative: counter threats of utter silence, having the effect of abandonment, on the part of all my friends, (Abbot, for example, by name, and *himself* not excepted,) in the event of my bringing on the matter in any tone of inculpation: recommendation to try this one session, in a quiet way, with nothing but a statement of the bad points of New South Wales, for which he expressly offers materials: consent to my acting hostilely in another session, if nothing comes of quiet proceedings in the next. Short answer—very short—on my part, expressing an intention of profiting by his advice, so far as consists in the making an attack upon New South Wales, and asking him for his documents. Reply from him in a tone of unusual coldness: saying that the communications he meant were *verbal* ones; and referring me to '*conversations in the course of the winter*' for the *time:* we not being, of late years more especially, in the habit of any such conversations. My notion is, that in the meantime some intimation had reached him, (by conversations, for example, either with my other correspondent or with Addington, &c.,) that I did not mean so far to take his advice as to give up my attack upon his dear friends, for whom he had been expressing his regard to me,—even the Rose of Roses not excepted. In the long letter, piety in abundance on the occasion of Lord Belgrave: and, upon the whole, a not unamusing or altogether unedifying contrast might be exhibited, between the

ardour of his piety and the icy coldness of his love of public justice. He confesses Pitt's procrastination to save him on the score of perfidy: for my part, I shall admit the procrastination, but instead of admitting it as a *disproof* of the perfidy, I state it as the *cause*.

"This same pious gentleman had broken, on a former occasion, as solemn, and deliberate, and spontaneous a promise, as it was possible for one man to give to another: a promise that '*he would not desert me*,' and that he would bring on the Panopticon business in Parliament at any time, and in any shape I would point out. I pointed out in due season a shape so quiet and unexceptionable, as that of a mere motion for the continuation of those accounts from New South Wales, the continuation of which had been so strongly recommended in the twenty-eighth Report of the Committee of Finance: he would neither bring it on in that shape, nor in any other; nor his friend Thornton neither, who was present, and by whom it was my plan that the motion should be made: he having been an efficient member of that Committee. I forbore irritating him by any the least allusion to his promise: at the time of his making it he had not yet quite reconciled himself with Pitt; on whose want of good faith he spoke with great freedom, imputing it to his want of faith in the religious sense.

"A capital object of his alarm, was (I return to his long letter) my including in my narrative a letter I had written to him, (about ten months ago, on the occasion of a conversation of his with Lord Pelham,) written to him, (W.,) giving him an account of a visit I had undergone, a year or two before, from the Duke of Portland, with Billy Baldwin to take care of him. It would cover his Grace,—and for life,—with ridicule ineffaceable. Would it so? quoth I,—*tant mieux:* he shall not catch cold for want of it: though a covering, composed of the four walls in some room in the Tower, would be a further covering not ill suited to his deserts.

λάϊνον ἕσσο χιτῶνα, κακῶν ἕνεχ', ὅσσ' ἔοργας.

"You have read Homer since I did, and can conclude or correct the metre and the sense. The pleasant part of the story is,—that in the midst of all this concern for the reputation of his Grace, he himself makes no secret of his considering himself under an obligation of bringing before Parliament something on the part of his said Grace, big with enormity, though unspecified: so that *my* attack upon his Grace,—an attack he does not dispute the justice of,—is to be given up for his beautiful eyes: while *his* is to be made, *comme de raison:* from which I infer that he has contrived, or thinks at least that he has contrived, in this attack to keep the *now* again dear Pitts, and Roses, and Longs, out of the scrape. In all this sacrifice of public justice to private connexion, there is nothing very miraculous, upon ordinary mundane principles: but on the pure spiritual ones that breathe through every pore of this epistle, what shall we say to it? What a contrast between this man and Nepean, from whom I have never in the course of the whole business heard a syllable about holiness! Poor, dear, *religious* sanction! what a *bump* it gives to the *beam*, when thus weighed against the *moral*.

"Meantime this crack, '*in a house divided against itself*,'—a sort of a tenement which we are assured from the highest authority cannot stand,—might be not altogether unworthy the ear of Opposition. It is *their* business to *have*, or rather to *have had*, intimation of the cause and particulars of it: and thereupon not to sit still with their arms across, and see it *close* again."

THE REV. BROWNLOW FORD (*Ordinary of Newgate*) TO BENTHAM.

"*8th Jan.*, 1803.

"Your own investigation of the subject will furnish you with many documents, as well as arguments on the subject of *executions;* better calculated than anything I have said to do away the *disgrace* which they are to our country; and from you they will have weight. Pursue them, I beseech you, to the abolishing of executions, and you will deserve ten thousand times more from that country, than ever Howard did. *My* situation

in life is too insignificant to have any attention paid to my opinions. Besides, as one of the Aldermen said, when I expressed some such thoughts as I have now given to you,—'Pray, be quiet, Doctor, and keep your mind to yourself! If there were no *executions*, there would be no occasion for an *Ordinary*.' *Verbum sapienti.*—If the enclosed remarks be worth preserving, please to indulge me either with them, or a copy of them, as soon as you can make it convenient."

The title which Bentham had proposed to give the volume afterwards called "Plea for the Constitution," was "Constitution Conquered." Dr Parr liked the title and the preface, and wrote to Bentham urging him not to cast it aside; but Romilly, more cautious, thought differently, and wrote thus:—

ROMILLY TO BENTHAM.

"*15th Feb.*, 1803.

"DEAR BENTHAM,—If my criticism has no other merit, it will have that of frankness. I don't like your preface. If I were to decide between that and none, should vote for omitting it altogether. There is too much levity in it, especially as it forms a striking contrast with the proposed title. A man who is about to read of the Constitution, not violated only, but conquered,—of enormities committed, and all our most sacred laws broken,—would not expect to be so much amused at the outset as he will find himself when he has read only a few paragraphs of the preface. In truth, it appears to me that the title is too vague, and the preface much too comic. I don't like your passing from the attempted conquest of America to the attempted conquest of the Constitution in 1767, which, by the by, was long anterior in time to the conquest of America, though not to Lord Chatham's speech which you allude to, and which related to a different kind of conquest,—a conquest from the French. I don't like it, in the first place, because, though the forty days' tyranny was a transaction very properly brought to the recollection of those to whom you are about to show that the Constitution has been since violated in more important points without any attention being paid to it, yet that forty days' tyranny is not to be compared in any point of view with the American war: and in the next place, I don't like it, because the word conquest is applied in its literal sense to America, but is a metaphor when used, either of the transactions of 1767 or the proceedings at Botany Bay. The truth is, that notwithstanding what has been done at Botany Bay, the British Constitution is not conquered, but still remains as it did. It has been disregarded—violated, if you please,—but because ministers have done what is alleged, and nobody but yourself yet knows anything of the matter, I think you would hardly maintain seriously, with the Parliament sitting with its accustomed forms, and your *favourite* juries deciding causes every day, that the Constitution is conquered."

Again,

"*March* 5, 1803.

"DEAR BENTHAM,—I had a short conversation to-day with the Attorney-general. Nothing in the preface has given him offence; and on the contrary, he seems to think that you have spoken very civilly of him. But he has been shocked very much by the *title*—the title and the preface are all he has read. I wish I could recollect his words—they were, as nearly as I can remember them, to this effect: 'If I were disposed to interest myself to have the Panopticon established, and to have him placed at the head of it—and I should really be glad to do it, if I saw a proper opportunity—how could I recommend to a secretary of state, to place in such a situation, a person who had written such things of him or his predecessors?'—Ever and most sincerely yours," &c.

JOSEPH JEKYLL TO BENTHAM.

"*Spring Gardens, March* 1, 1803.

"DEAR BENTHAM.—You know I am such an old *jail-bird*, that I am really vexed we have not met, especially as

Sir C. Bunbury says you wished to meet

"Your letters to Lord Pelham I have read with care and total approbation.

"But as to any step in parliament—what can we do?—Jupiter Hostis!—at least as far as finance goes, and their own habitual support of a most abominable system,—abominable chiefly because most foolish."

BENTHAM TO JEKYLL.

"*Q. S. P.*, *6th April*, 1803.

"DEAR JEKYLL,—Many thanks for your kind letter of the first of last month. The best return it has been in my power to make for it, I have made; which is to forbear taking advantage of it to plague you to no purpose. The devil tempted me to shoot you flying, during circuit time, with a third pamphlet,* which I shall now deposit quietly at your house, in company with these presents. The devil tempted me; but your good genius, or genuises, in the shape of two evil geniuses of mine—Irresolution and Indolence—cried out, 'Avaunt, Satan!' and so you escaped.

"What is it that has turned my brain, and thrown me among the Supernaturals? Your 'Jupiter Hostis,' I believe. Oh, yes; hostile enough, I warrant him. But have you not heard—when you come to town I suppose you will hear—of a conspiracy among certain *Titans*, to force him in his [Celestial?] Chamber? First Titan, Sir Charles Bunbury. If he has not forgot it, or given it up, it waits, I suppose, for you. *Botany Bay*, which he has an invincible penchant for, and does not like I should say anything against it, was to be connived at; the attack was to be pointed at the Hulks. Wherefore he issued an injunction against the letting off the aforesaid and herewith enclosed squib. He said, 'Be it so;' and so it was: whereby you escaped, as above, and your circuit likewise: for my project was, that you should have tied it to the tails of your two Judges, (I don't know who they are,) and bounced it off at one of your circuit dinners. I submitted, and with the best grace imaginable: ask him, eh! Prudence is his province. Fortitude and patience mine. But, not to trespass any further upon yours, I conclude with assuring you, that as faithfully as you are mine, I am yours gratefully, &c.

"I am always in the same dog-hole, where I have been kenneling for above these twelve years. I am never out of it: so that if it should ever happen to you to prefer walking to 'vexation,' you may be sure to find me."

* Plea for the Constitution.

BENTHAM TO SIR CHARLES BUNBURY.

"*Q. S. P.*, *2d May*, 1803.

"DEAR SIR,—The storming party? What news of it? Any signs of life? Orders—stop the Plea for the Constitution, for fear of giving offence; which, as against the storming party, will serve the Dr for defence. Orders from on high: passive obedience below: allegiance,—but what is to become of the protection that was to pay for it? Visit from Jekyll, who talked of making up a jail-gang at his house. Sir H. Mildmay, whom I have never seen, is notorious as an enemy to the hulks: but his still more notorious friendship for Pitt may perhaps have indisposed him against the 'Comparative View,' and the cause in general. Letters and Plea—it is high time they were published, if no good is to be got by forbearance.—Your most obsequious, &c."

BENTHAM TO WILLIAM WILBERFORCE.

"*Q. S. P.*, *31st May*, 1803.

"DEAR SIR,—On the 8th instant, I received from Sir Charles Bunbury a letter, the conclusion of which is in these words:—

"'I spoke to Mr Wilberforce, to know whether he would apply with me and other friends to Mr Addington; but he declined; saying he thought you had been used very ill, and could not keep his temper when he talked on the business.'

"The practical determination thus represented as announced, presented itself to me as being in such diametrical

opposition to the observation on which it is represented as grounding itself, that I should have stood convicted of rashness in my own mind, had I suffered myself to regard the intelligence as correct, without applying to yourself for the confirmation or correction of it.

"It is my misfortune to be a principal in the business: so much so as to have everything at stake upon it. It never yet occurred to me to have the smallest apprehension of not being able to keep my temper in talking about it, much less if I were to go prepared. Silence, at the very worst, would be a sure resource.

"That a comparative stranger, in the ocean of whose public concerns this business is but a drop—a man remarkable (as I have ever understood) for the mildness of his temper too, as well as for so many other virtues—should be so much more affected than the party himself, who has had nothing else to think of for these ten years, seems to me so irreconcileable to the known principles of human nature, that I feel myself quite unable to admit it. At this rate, were a minister on any other occasion to find his convenience in sacrificing the interests of public security and morality—in trampling upon acts of Parliament—in breaking the public faith, to the oppression of an unoffending individual—he would need to but screw up the enormity of his guilt to a pitch sufficiently provoking, and on those terms he might make sure of the acquiescence of Mr Wilberforce. What a lesson! what an encouragement—for the advocates of the Slave trade, for example, were they to hear of this—which, perhaps, they have done by this time—though certainly not from me! Had the proposition been to move for the impeachment of these friends of yours—to move for an inquiry—to move for papers—so much as to stand up and say anything upon the subject in the House, it would be a different case. But, if I understand the matter right, your refusal went not merely to the speaking on the occasion, but the so much as going up to the Minister in his closet, and entering a silent appearance among the approvers of the measure.

"Sir Charles was then on the point of setting out for the country: whether he has returned or no, I know not: for I have not seen or heard from him since.' By the date of his letter you will see how far I have been from being forward to trouble you on the subject. But the case is, every now and then, somebody is dropping in upon me, and asking—Well, and Mr Wilberforce, what says he to the business?—a question to which I know not what answer to make, pressed as I am between the apprehension of doing you an injustice, and the difficulty I find in conceiving any incorrectness in the evidence, in a case upon the face of it so simple. Labouring under this perplexity, you will, I flatter myself, forgive the trouble I am putting you to, in thus applying to the only person in whose power it is to relieve me from it.

"Two former letters had in some measure prepared me—as it seemed they were designed to do—for abandonment: but that recollection, far from removing, scarcely so much as lessens, the difficulty I experience in conceiving such a reason to be assigned for it.

"I once considered myself, nor shall anything short of absolute necessity make me cease to consider myself, dear Sir, your much obliged, humble servant."

WILLIAM WILBERFORCE TO BENTHAM.

"*House of Commons, June* 1, 1803.

"MY DEAR SIR,—I am very sorry that our friend Sir Charles Bunbury, by reporting to you, (I am sure through mistake,) not very correctly, a few words which I uttered to him very hastily, when my mind was full of other business, on our accidentally meeting in a shop, has occasioned in you any uneasiness, or any misconception of my sentiments and feelings towards you. These are the same which they have long been: such as proceed from a perfect conviction of the great advantages which would result from the carrying into execution of your valuable plan; from a persuasion that you have been most hardly used, from various circumstances, which

I need not particularize; and lastly, from an earnest desire that you may at length overcome all obstructions, and see your ingenious theory realized, and your long labours crowned with success. I shall ever be ready to lend my best efforts, so far as they can properly be exerted, for the accomplishment of this end: you may reckon upon me as steadily possessing these dispositions, and as being always desirous of acting upon them.

"I will also, at any time, see you and confer with you on the business, and with any friends of yours. My being occupied beyond my constitution, and my *having been* ill, has alone prevented my anticipating your application, and attending to your affairs, in the early part of the present Session.

"I scribble at a crowded Committee, amid interruption and bustle: you must allow, therefore, for this hasty scrawl; and believe me, always with esteem and regard, dear Sir, your faithful, &c."

There is an hiatus in the documentary history of the Panopticon controversy, from the date of the above till the year 1809, when I find Wilberforce writing as follows:—

WILLIAM WILBERFORCE TO BENTHAM.

"*Kensington Gore, or*
"*New Pal. Yard.*
"*June* 1, 1809.

"MY DEAR SIR,—Though the incessant bustle in which I live during my residence in the neighbourhood of London is such as to render it impossible for me to bestow much thought on any but urgently-pressing business, yet I can truly declare that you, and the treatment you experienced, have been often in my mind; and that the sense of it, which I have formerly so often expressed to you, remains utterly unaltered. But, in truth, I always felt that it was more than could be expected (I might almost say out of nature) for you to think that I had not neglected opportunities of pushing forward your business; and therefore I was impressed with the persuasion, that however your good nature might prevent your opening your mind to me, you must number me among those who had used you ill, and, consequently, not much relish my society. I therefore satisfied myself with speaking of you, of your merits and cruel sufferings, in the way which justice appeared to me to require, as often as opportunities occurred. At length an occasion arose the other day in the House of Commons for publicly noticing your plan; and some private conversation (though but a few words) with one of the Treasury people, confirmed the opinion which various circumstances had led me to form,—that the present was a favourable moment for carrying into execution your great project, and obtaining for the public all the benefits it is calculated to produce. I have been therefore, ever since, intending to write to you, that I might learn whether you had still the heart to go forward after all your former disappointments. Indeed, I hoped that what I said in the House would have attracted the public attention. But according to the usual treatment which, on principle, I experience from the reporters of our debates, (and which I expect will at length have the effect intended—of ruining me with those of the public to whom I am not personally known,) not one word of what I said on this subject was mentioned in any newspaper I saw; and in one, *The Times*, I was not even mentioned as having spoken at all, though my speech was (I will not say anything of its *quality*) more in quantity than that of any other speaker. I should be glad to confer with you on the business at any time, and would either call on you, or be happy to see you at the hôtel or Kensington Gore. At the former I often am from about three to four o'clock; and at the latter till twelve o'clock in the day from half-past ten, unless the House has sat beyond twelve o'clock the night before, in which case I sleep in Westminster. Excuse the effects of extreme haste; and believe me, with esteem and regard, my dear Sir, yours most truly."

The Report of the Select Committee

on Penitentiary Houses, in 1811, is mentioned above (p. 103) as having been designed for finally crushing the Panopticon project. It is thus alluded to by Romilly:—

ROMILLY TO BENTHAM.

"DEAR BENTHAM,—The Committee made their Report yesterday. I have not been able to see it. It is very long, and, I understand, very unfavourable to your contract. I attended the last day but one, of their meeting, but found it quite impossible to do anything. Except Abercromby, and myself, and Wilberforce, no person friendly to you was present.—Ever most sincerely yours, &c.

"*June* 1, 1811."

The part of the Report which bears on the subject is as follows:—

"The 34th Geo. III. cap. 84, reciting that certain lands at Battersea Rise (which are described in the recital, and stated to contain 79 acres and one rood) had been fixed upon by the supervisors appointed in pursuance of the former act, and after being duly approved of under the provisions of that act, had been valued by the verdict of a jury at £6,600, but that penitentiary houses had not been erected, directs the lords commissioners of the treasury to fix upon that spot of ground, or any other equally convenient, and to contract for the erection of a penitentiary house or penitentiary houses thereupon. They were to appoint a feoffee or feoffees to treat for the ground, and accept a conveyance of it; and the usual powers were given to compel a sale by the owners of the spot selected.

"The provisions of the former act, respecting the appointment of a Committee for the superintendence of the establishment, as well as those enactments which related to the treatment of the offenders to be confined therein, were virtually superseded, by the third clause of this statute enabling his Majesty to nominate a governor or governors of such penitentiary house or houses when erected, and giving to such governor or governors the care, management, superintendence, and control of the same, under such powers, directions, limitations, and restrictions, as are contained in the 24th Geo. III. cap. 56, or as should be appointed by his Majesty under the powers of that act; which is an act empowering his Majesty to commit to the care of persons to be named overseers, offenders either under sentence of death and reprieved, or under sentence of transportation, to be fed, clothed, and kept to hard labour, in such places and under such directions as his Majesty shall appoint.

"The 34th Geo. III. appears to have been brought into parliament with a view to an arrangement which had been for some time in contemplation, founded on an offer made by Jeremy Bentham, Esq., a gentleman of great respectability, to contract with the Lords Commissioners of the Treasury for the erection of a penitentiary house, and the care and custody of the persons to be confined therein, upon a plan described in a paper entitled, "A Proposal for a new and less expensive mode of employing and reforming Convicts," a copy of which is contained in the Appendix to this Report; and about a month before the act received the royal assent, a sum of £2000 was actually advanced to Mr Bentham, from the treasury, by way of imprest, to enable him to make such preparation as might be necessary for the custody and care of the convicts proposed to be confined in the penitentiary houses intended to be erected. It appears that Articles of Agreement were accordingly drawn up between the Lords Commissioners of the Treasury and Mr Bentham; and the various sums of money to be received or paid by the contractor, in the several cases that might occur under the contract, were settled and inserted in the draft, a blank being only left for the description of the ground; in the selection or purchase of which, the difficulties which have prevented the completion of the arrangement appear to have arisen.

"It does not appear for what reason the site of the intended erection was changed from Battersea Rise, but the ground which had been chosen there, and valued under the former act, was abandoned, before any contract for the conveyance of it had been completed, for a spot in Tothill Fields, where 53 acres of land were purchased for £12,000, and a conveyance of them taken on the 12th day of October, 1799, from the vender to Mr Bentham, as feoffee under the provisions of the 34th Geo. III.

Mr Bentham, who is still in possession of this land, considers himself as entitled to have attached to the Penitentiary House under his contract, such additional quantity of ground as shall make the whole of what is allotted to him, amount to 79 acres, that being the number which he found appropriated to the intended establishment, by the recital in the act of parliament; and he states upon that head, that the portion of such ground, which may exceed the quantity absolutely necessary for the erection of a Penitentiary House, formed a part of the consideration for which he consented to the terms of the original agreement, and that he intended to use the whole for the purposes of the establishment, by employing such of the convicts as were fit for it in agriculture and gardening.

"Mr Bentham having appeared to your Committee to be still desirous that the contract, to which, though not actually signed, he conceives the public faith to be fully pledged, should be carried into effect, with such variation in the sum of money to be paid by

government for the maintenance of each convict as should be deemed equitable, in consideration of the advance of price which has taken place in all articles of consumption since the agreement was framed, and with the exception of such part of the agreement as relates to the erection of the buildings for the Penitentiary House, which he does not now find himself able to undertake; your Committee found it necessary to enter into the consideration of the principles of the contract alluded to, in order to form a judgment on the expediency of its adoption for the management of the Penitentiary establishment recommended in this Report.

"Mr Bentham's offer, the terms of which appear, in a pecuniary point of view, to be advantageous to the public, was founded, according to the statement contained in his original proposal, upon his having 'contrived a building in which any number of persons might be kept within the reach of being inspected, during every moment of their lives.'

"The Plan upon which it was his intention to erect this building, may be seen in a paper annexed to the proposal, and entitled 'Outline of the plan of construction alluded to in the above proposal;' and models of a Penitentiary House, as therein described, were exhibited to many persons in Mr Bentham's own house, before his proposals were accepted; but no plan or form of building is referred to in the articles of agreement, and Mr Bentham states himself to be at liberty under it, to place what number of convicts or prisoners he may think fit, in the same cell, and to make them sleep and work in the same apartments; which statement appears to your Committee to be correct, there being no restriction or direction relative to those points to be found in the articles.

"By the agreement, Mr Bentham is to build, within one year after he shall get possession of the ground mentioned therein, fit accommodation for 1000 male convicts or prisoners, certain sums of money being to be paid to him for that purpose by instalments; and he is afterwards to make provision for the reception of supernumeraries, if required, upon certain terms.

"The contract being to continue during the lives of Mr Bentham and his brother, General Samuel Bentham, the building, and the stock and effects used therewith, are to be valued on the decease of the survivor of them, and a deduction being made of the sum of money originally advanced by government, the remainder of the estimated value is to be paid to the representatives of such survivor.

"The management of the prisoners is to be vested in Mr Bentham, (or in any fit person or persons to be named by him from time to time, during his life, to exercise the authority and receive the benefits derivable under the contract,) with the appointment of governor, and with such powers as his Majesty is enabled to grant under the 24th Geo. III., the Act to which the 34th of the king refers upon that head, as has been already stated; and in the event of Mr Bentham dying in the lifetime of his brother, General Samuel Bentham, 'the same office and powers are to be exercised, and the benefit thereof enjoyed by the said Samuel Bentham, or some person or persons to be named by him, during his natural life.'

"The contractor is to receive a certain allowance for the care and maintenance of each prisoner, and is to be annually paid for 1000 at least, though the persons committed to his charge should not amount to that number. He is also to retain for himself three-fourths of the profit upon their labour; the remainder being appropriated to their own use, payable in part to them immediately, and in part convertible, on the expiration of their respective terms of imprisonment, into annuities for their future benefit.

"The contractor undertakes, on his side, to feed and clothe the prisoners, supplying them daily with wholesome sustenance, composed of bread and meat, and other articles commonly used for human food, and with one suit of clothes yearly, as well as with a clean shirt twice a-week.

"He is also to furnish each a separate bed and bedding, of sufficient warmth, with clean sheets or blankets once a-month; and he engages, that 'all possible attention shall be paid to the cleanliness of the prisoners in every respect, as far as circumstances will permit; that the Penitentiary House and buildings belonging thereto shall be sufficiently warmed and lighted; and that every proper precaution shall be taken to prevent the same from becoming infectious or unwholesome, to preserve the prisoners in good health.'

"He further engages to provide, at his own expense, a clergyman of the Church of England to live on the spot; a surgeon; and a sufficient number of competent schoolmasters, by whom instruction shall be administered on every Sunday at least, in reading, writing, and arithmetic, to such of the prisoners as shall stand in need of it.

"Subject to these stipulations, every arrangement, in regard to the treatment of the prisoners, as well as the determination of the manner in which they should be employed, of the hours of the day or night in which they should labour, and of the classes or numbers which should either work together, or associate at their meals or times of exercise or recreation, is entirely left at the discretion or will of the contractor; while every officer and servant, connected with the establishment, is to be placed there by his appointment, and removable at his pleasure.

"The system of management here described, appears to your Committee to have been framed with reference rather to the personal character of the party, in whose custody the prisoners were on the first instance to be placed,

and to the favourable opinion entertained of the construction of the building proposed by him, than to the principles upon which prisons have hitherto been conducted in this country. Your Committee are satisfied, that Mr Bentham would enter upon the undertaking, to which his contract relates, with the best intentions; but the prosecution of that measure, together with the benefits derivable under the contract, might, by the terms of the agreement, pass at any time into other hands; and even if that were not the case, the arrangement above stated is too exceptionable on general grounds, in the judgment of your Committee, to be adopted from confidence in an individual.

"Under the 22d Geo. III. c. 64, sect. 8, which prohibits the governor or keeper of a house of correction from having any advantage from the sale of any article used in the house, there is a security for the goodness of the provisions and necessaries sent in on account of the public for the use of the prisoners, arising from the circumstance of their passing under the eye of the governor and his servants, who have no interest in concealing their defects; while the governor is not exposed to any temptation to sanction the introduction of any improper degree of luxury into the prison, with a view to his own profit, or of demanding an undue price for such articles as may properly be admitted there.

"Mr Bentham's contract contains no provision upon these points. If, however, this objection could be removed by additional articles in the agreement, by the establishment of a fixed table of diet, and by the appointment of resident inspectors, the public could have no reasonable assurance that sufficient attention would be paid to the religious instruction and moral improvement of the prisoners, under a system of management, every part of which is to be formed and directed by a person, whose interest it must be that the prisoners committed to his charge should do as much work as they were competent to execute, and that their labour should be exercised in the manner by which most profit would be produced. If the chaplain should suggest, that individuals, very profitably employed in the same workshop, were unfit, from their characters or other circumstances, to associate with each other, or that any practice in the prison, which might be convenient in a manufactory, operated to retard rather than to accelerate the progress of moral improvement, it cannot be supposed that such intimations would be heard with as ready an acquiescence, and would meet with the same encouragement, when addressed to a governor, whose profits they were calculated to diminish, as if they were communicated to persons having no interest in the produce of the prisoner's labour.

"Your Committee see much reason to apprehend, that under a system, in which pecuniary advantage is thus made the most prominent object of attention, the experiment of reformation would not be fairly tried.

"An answer has been supposed to be furnished to this objection, by an article in the agreement, binding the contractor to make compensation for losses occasioned by the future felonies of every person who may have been confined in the Penitentiary House, to an amount varying from £5 to £25, (for the felonies of the same individual,) according to the length of the period during which the offender shall have been under his care; which provision is argued upon as giving a sufficient interest to the governor in the reformation of every prisoner. Your Committee, however, attach very little importance to this article; and it is the more nugatory, as, although its operation must continue during the lives of all those who shall come under the care of the contractor, no funds whatever are provided in the contract, or are now proposed, to answer the contingent payments to become due after the contractor's death.

"Reliance has also been placed on a provision of the same kind, operating in the nature of a pecuniary penalty, for the preservation of the health of the prisoners; it being agreed in the 17th article of the contract, that the contractor should insure the lives of the persons confined, on such terms, that if more than a certain number shall die within the year, he would be a loser instead of a gainer by the insurance: your Committee observe, that in their opinion the health of the prisoners will be more effectually guarded by the exercise of the judgment of a professional man, not dependent upon the governor, and acting under the direction of other disinterested persons, than by the payment of any sum of money to fall on the governor in the case of the prisoner's actually dying within the walls of the prison during his confinement.

"It appears to the Committee, that the proposed system affords no sufficient protection to the prisoner, upon any point.

"In a place of confinement, in which the prisoners are compelled to work, and expected to be reformed, something of a more strict discipline may be looked for than in ordinary prisons. It is therefore more particularly requisite, that in a Penitentiary House opportunities of complaint should be frequent, and redress near at hand.

"The most obvious channel of complaint, if the governor be concerned in the supposed injury, is the chaplain, within whose province it lies, as on the one hand to endeavour to reconcile the mind of the offender to the lot which he has brought upon himself by his misconduct: so on the other, to prevent its severity from being aggravated by any hardships or privations which the law did not intend to impose.

"The surgeon is another person, through whom the prisoner may properly complain. But to make these officers of real use in this

particular, they must occasionally confer with the prisoner without the presence of the governor or his servants; they must neither be under strong obligations to the governor, or subject to his power; and they must be in habits of communicating with persons armed with sufficient authority to punish or redress the grievances laid before them.

"The Committee to be appointed under the 19th Geo. III., had full powers at all times for this purpose, and they or any two of them were to examine into the state of the Penitentiary House, at least once in every fortnight, and to 'see every offender confined there and not disabled by sickness.'

"In the contract, no provision whatever is made for personal inspection: but the governor is to present a comprehensive report in writing, of the whole state of the establishment, to the court of King's Bench on the first day of every term. And he is to answer, upon oath if required, all questions put to him by the judges of that court, or by any one judge thereof in vacation time, or by any officer of the crown, or by any other person with the leave of the said court, or of any one judge thereof. And he is further to surrender his office of governor, if ordered by the said court, 'on proof duly obtained as above, or otherwise, of misbehaviour in the execution of the said office.'

"The insufficiency of this article (the only one in the agreement that concerns the superintendence of the establishment) to provide for the redress of grievances, or the correction of any improper practice which may prevail there, is so evident, that it cannot be necessary for your Committee to enlarge upon this point.

"It is obvious that circumstances must frequently occur in a prison, which call for the interposition of higher authorities to censure or control the keeper, without constituting such instances of misbehaviour, as would justify the avoidance of a beneficial contract. To occasions in which an erroneous or indiscreet mode of treating the prisoners should be pursued, from want of judgment in the contractor, or from any cause not falling under the description of 'misbehaviour,' the proposed remedy by the authority of the King's Bench appears to be totally inapplicable; and in the cases in which it does apply, it could only be attained in term time, while the court, which is to make the order, is sitting.

"Mr Bentham supposes, as may be seen in his evidence, that sufficient inspection, and opportunities enough of making complaints on the part of the prisoners, might be afforded, by the admission of the public at all reasonable times into the inspection room in the middle of the building, from whence all the cells would be visible, and which would be accessible to the voice of every prisoner by means of tubes, to be constructed for that purpose; and he seems to lay some stress on the vigilance which the newspapers are to exert in watching his conduct. But your Committee, agreeing with Mr Bentham in the belief that curiosity would bring many persons to view a Penitentiary House of so novel a construction, do not concur in the supposition, that any intercourse of the description alluded to between such visiters and the prisoners, can supersede the necessity of having persons nominated expressly for the inspection and superintendence of every part of an establishment of that nature, in whom the powers of obtaining information, in regard to any mismanagement, shall be accompanied by sufficient authority for its correction.

"While your Committee state their opinion, of the inexpediency of carrying into execution a contract of the description above stated, they feel themselves called upon to bring under the notice of the House, the strong equitable claims which Mr Bentham possesses to compensation, in consequence of the contract not having taken effect. Your Committee have not gone into a detailed examination of the various circumstances connected with that subject, as an inquiry of that nature might have occasioned an inconvenient delay in their reporting upon the more important matters referred to them; but Mr. Bentham has stated, that he was encouraged by his Majesty's government to take measures preparatory to the erection of the intended establishment; that he has employed much time, and has expended a large sum of money in addition to the £2000 advanced to him in 1794, as mentioned above, in preparations for the execution of his part of the agreement; and that its non-performance was not owing to any default or backwardness on his side. He has, therefore, under these circumstances, a just right to expect, not only that the money so laid out should be repaid, but that a liberal remuneration should be made to him for his trouble and ultimate disappointment (he on his part accounting for any advantage that shall have accrued to him from the lands, of which he has been stated to be in possession as feoffee.) And your Committee recommend, that measures should be taken for the settlement of these claims without delay.

The Second Report of the Committee, as it chiefly consists of a communication from Bentham, follows at full length:—

SECOND REPORT FROM THE COMMITTEE ON THE LAWS RELATING TO PENITENTIARY HOUSES.—*Ordered, by the House of Commons, to be printed, 10th June*, 1811.

The Committee appointed to consider of the expediency of erecting a PENITENTIARY HOUSE, OR PENITENTIARY HOUSES, under the acts of the 34th and 19th of his present Majesty; and, in case the adoption of the measure now referred to their consideration

should appear to them to be for the advantage of the public, to report whether any additional legislative provisions will be wanted for that purpose; and what number of persons such Penitentiary House, or Penitentiary Houses, should, in their judgment, be calculated to receive, together with any observations, which they may deem material upon the subject of their inquiry;—and who were instructed to inquire into the effects, which have been produced by the punishment of transportation to New South Wales, and of imprisonment on board the Hulks; and were empowered to report their observations and opinion thereupon from time to time to the House;—Have further considered the matters to them referred and agreed upon the following REPORT:—

Your Committee having received the following letter from Jeremy Bentham, Esq., since their former Report was made to the House, have thought it their duty to submit the same to the consideration of the House; although the observations therein contained, have not made any difference in their opinion upon the matters referred to them.

10*th June*, 1811.

[Corrected Copy, received 10th June, 1811.] Dated

Queen's Square Place, Westminster, 6th May, 1811.

SIR,—Understanding at different times, from different gentlemen, members of the Committee, that in calling me before them, the object of the Committee has been—not merely to scrutinize into the contract to which I am a party, but also, for the purpose of forming their judgment concerning the most eligible mode of disposing of such part of the convict population of the country as it may not be thought fit to confine in Hulks, or employ in colonizing, to collect any such information as, in any shape, I might be found capable of affording—I take the liberty of submitting in this mode, to your consideration and that of the Committee, a few suggestions on the subject of the country convicts.

For such of the convicts, whose conviction shall have taken place in London or Middlesex, with or without the addition of a few other counties nearly contiguous to the metropolis, such as those for instance which are comprised in the home-circuit, the provision made by the existing contract may, it seems to be supposed, suffice.

On this supposition, what, in some mode or other of the Penitentiary plan, remains to be provided for, is—that as yet indefinite part of the convict population, which may be expected to be furnished by the more or less distant counties:—say, for example, the five remaining circuits.

For this large remnant of that population the question then is—What is the best mode?

To this question the answer presents three options—

1. Panopticons in the metropolis, over and above the one supposed to be determined upon: viz. in number, one at least, and as many more, if any, as the number of convicts to be provided for shall be deemed to require.

2. Panopticons, upon an equal scale, and consequently in equal number, in the country. These two plans belong alike to what, for distinction's sake, I would beg leave to call the open mode upon a large scale.

3. Penitentiary houses, in the existing mode, one in and for each county; or, in such cases in which the convict population afforded by a single county would be manifestly too small, one in each aggregate of contiguous counties, to be associated together for the purpose.

This last mode I would beg leave to distinguish by the appellation of the close mode upon a small scale.

As to the question between the open mode upon a large scale—viz. the Panopticon mode upon the Panopticon scale, and the close mode upon a small scale—my opinion has been already submitted, and not my opinion only, but the considerations, or the ground on which it was formed.

Management, in every imaginable point, better; expense less: in these few words all those considerations will be found comprised.

On the question between panopticons all in the metropolis, and panopticons one in the metropolis and others in the country, (in each case in the open mode upon the large scale,) neither are the points of distinction so manifest, nor the importance of them so great.

On the whole, however, the result of my inquiry is—that panopticons all in the metropolis present a decided title to preference.

What presents itself to me as the principal reason is, that the metropolis affords beyond comparison the best public. Here whatsoever matter proper for consideration comes into existence, is, with the minimum of trouble, brought instantaneously to the ear, laid open even to the inspection of the eye, of the whole body of constituted authorities: of the members of the administration, of the immediately superintending judicial authority: of every member of the legislature.

Not that objections are altogether wanting; but neither from report nor from imagination, have I been able to collect any, the united force of which seems sufficient to constitute a preponderant one.

1. Danger to the metropolis, from forcible and general eruption, increased.

2. Inordinate accumulation of convicts for whom provision may be to be made after discharge.

3. Remoteness of the convicts from their respective desired abodes, at the time of their discharge.

4. Inordinate expense of conveying the convicts from the place of conviction to the place of punishment.

5. Supposed unsuitableness of the fund, upon which, on this plan, the expense of maintenance, with or without the expense of conveyance, would be to be charged.

These are all the objections which I have been able to discover: and to these I proceed to submit such answers as the nature of the case has suggested.

I. Objection 1. Danger of general and forcible eruption. Answer. In my own particular opinion it will readily enough be conceived, considering the peculiar guards which the peculiarities of the Panopticon plan provide, this danger cannot appear very considerable in either case.

But, if it be considerable, the metropolis is the spot in which it should naturally appear much less considerable than in any other place: in any other town or towns at least, to which, otherwise, this part of the convict population would be to be consigned.

Millbank and Tothill Fields being, by the supposition, the spot fixed upon already for one panopticon, I see not what should hinder its being made to receive as many others as can be required.

Within a few hundred yards of Tothill Fields is constantly stationed a body of regular troops, to the amount of some thousands: the distance, so small, that, in case of commotion, communication might be made by signals of both sorts: signals not only to the ear, but even to the eye, if an apparatus to that effect were thought fit to be provided.

In Tothill Fields, at one end of Rochester Row, stands, and has stood for (I think it is) about eight or ten years, a military infirmary, in which is constantly stationed a military guard, consisting, as I have just been informed on the spot, of nine soldiers. On one side, the waste called Tothill Fields has for its boundary this Rochester Row, on the opposite side the parcel of ground already purchased for the Panopticon Penitentiary House. On no part of this ground is there any building but what may at present be actually seen from the infirmary just mentioned, and by the guard there stationed.

"On a subject so plain I should never have thought of troubling the Committee with so many words, but for the recollection, that some eighteen or nineteen years ago, at the commencement of my negotiations, to an observation of mine pointing to the military force in the Park as an obvious source of security, the answer returned, by a gentleman then in office, was an inexorable negative. What the objections were, I

inquired in vain: with the gentleman himself they did not originate. Be they what they may, they would now be found, I should hope, no longer in existence. If the Panopticon contained within its lodge an acting magistrate, this military guard, being actually in his view, would, on any such occasion as that in question, be actually under his command. I mean by common-law, to which no order from any war-office, would, I presume, be opposed.

"By the constant sight of a similar guard, stationed, if thought necessary, close to the spot; for example, three or four at the entrance into the Panopticon ground through the walled avenue that leads to the house,—two or three at each of the two elevated watch-houses, which command, each of them, by night as well as by day, the inside as well as the outside of two of the four surrounding walls,—by the constant sight of this small guard, coupled with the knowledge of the arrangements that might so easily be made for instantaneous communication with the great body stationed in the neighbouring park, it would be extraordinary indeed, if, in the imagination of the most refractory prisoner, all chance of success in any such attempt, would not be rendered hopeless,—manifestly as well as constantly hopeless. Further observations on this head, may be seen in Panopticon Postscript, part 2, sect. 15, pp. from 201 to 208. [Works, vol. iv., p. 164-5.]

"Against every danger of this sort, such are the means of security afforded by the metropolis in general, but in a more particular degree by the particular spot in question. In any of the provincial situations, what security comparable to this could be afforded? and that, too, as in this case, without any special allotment of military force for this particular purpose?

"True it is, that spite of military guards, French and other prisoners of war have, from time to time, and but too often, and in too great numbers, contrived to make their escape.

"But against the escape of convict prisoners, the Panopticon plan presents securities in abundance, few of which, if any, would (I believe) be found employed on any existing plan, in the case of foreign prisoners.

"1. Uniform conspicuously distinctive.

"2. Close dress, in which the concealment of any weapon suited to the purpose of offence or defence, would be impracticable.

"3. Mark, by which, on the mere baring the habitually covered arm, (the other being habitually uncovered,) the condition of the person in question, viz. the fact of his being a person belonging, in the character of a prisoner, to the prison in question, would, for weeks at least after escape, be manifested.

"4. Constant division of the prisoners into small, and those assorted companies.

"5. The prisoners rendered distinguishable at a distance, each of them by a number marked upon his clothing at the back and at the breast.

"6. No outlet for the prisoners into the enclosed area, but through a passage commanded by a guard; and so narrow that no more than one can make his exit at a time, nor then but under a horizontal bar, so stationed, as, by obliging each person to stoop, to render impossible any acquisition of conjunct force by running.

"7. Light kept constantly thrown, by night as well as by day, not only upon every spot to which the prisoners have access within the prison, but upon the whole surface of the four surrounding walls.

"8. For the purpose of inspection, eyes in considerable numbers constantly availing themselves of that light: viz., some in the centre as well as other parts of the circularly polygonal building within the walls, others stationed in the commanding watch-houses above-mentioned, on the outside of, and in part above, those walls.

"9. On the top of the walls all round, a range of spikes, iron or wooden, of such slightness, that, in the attempt to set a ladder against them, or throw a rope over them to get up by, they would give way and break, and in either case strike against a range of wires, by which a number of bells would be set a-ringing.

"10. A conversation-tube from the central lodge to each of the exterior guard-houses.

"11. On the outside of each of the surrounding walls, a ditch, the water of which would, on any attempt to undermine the contiguous wall, inundate the miners, and while it betrayed their operations, render an exit, if not absolutely impracticable, at least impracticable without such noise as would give abundant warning to the guard-house.

"12. To each such guard-house a dog or dogs, of the sort of those which in the night are set a-barking by any the least noise.

"In the eyes of the Committee, the enumeration of these several resources may be perhaps the more pardonable, if they should appear, any of them, capable of being applied with advantage to the giving additional security to those modes of confinement of which in the present state of things the inefficiency has so frequently been seen to betray itself.

"To such of the convicts as it might be thought fit to give employment to in the Panopticon ground at large, and thence without the limits of the enclosed area, true it is, that no more than a part of the above securities, nor that the most considerable part, would be found applicable.

"But considering, that the time of day-light would be the only time at which the demand or use for any such employment would present itself; considering that in fact, on the many public works on which convicts have now for so many years been employed, they have been employed in large numbers, and (as supposed) without any particular means of selection or anxiety on that head, and that too under slight guard, and yet, at those times at least, without any instances, I believe, of escape; considering, that the passion by which a prisoner is prompted to seek, by violent means and at the hazard of his life, a relief from durance, is not likely to be found in equal strength in the breast of every individual member, of a society so numerous and so miscellaneous, the members of which may, with less danger of injustice than anywhere else, be rendered responsible for each other; considering, that in the mode of treatment which is essential to a system of commercial operation conducted upon the plan in question, there is nothing that seems to present a probability of its being productive of any exertion more violent and desperate than in the case of a prison upon any of the ordinary plans: all these things considered, the conclusion may, it is hoped, be, that in a case where by any failure of human prudence the party failing would, as in the present case, be in so many shapes and in so high a degree a sufferer, that same human prudence, on which, in spite of all possible securities of every other kind, reliance must in every case be placed, is not, in the present case, to be considered as destitute of all claim to that sort and degree of confidence, which is so unavoidably bestowed upon it in all other cases.

"To make use of every one of these securities, at all events, and under all circumstances, without any exception in any case, is more than I see any necessity of pledging myself for; nor yet do they constitute a complete list of all the securities, to which it might eventually happen to me to have recourse. Many of them will be attended with an expense which, if incurred without necessity, would be so much waste; but for which the justification, as well on the score of necessity as of good economy, will be the more complete, the larger the scale is on which the establishment is conducted.

"The faculty by which these securities were devised, will not, I presume, be considered as putting an exclusion upon the kindred faculty, by which the decision on the question, how many and which of them to employ, will from time to time be to be pronounced.

"I proceed with the objections.

"II. Objection 2d. Inordinate accumulation of convicts for whom provision may be to be made after discharge.

"Answer. Upon the Panopticon plan, there will be the subsidiary establishment, open to as many as may choose to take the benefit of it. Some will,

some will not; but, whatever may be the proportion of the one number to the other, and whatever may be the sum of the two numbers, the exclusive choice of the metropolis does not, to my apprehension, present itself in the shape of an inconvenience.

"In the character of a reservoir for the influx in question, the option lies between the metropolis and some country town: some other town within the circuits of South Britain. The metropolis will, it is true, already have to provide for the influx from its own Panopticon. But, taking into the account the magnitude of the influx in both cases, compare the magnitude of the mass of population into which the influx will have to discharge itself in this case, (say in round numbers a million;) with the magnitude of the largest mass into which it can be set to discharge itself in the case of any other such town; say 80,000: by this comparison, all apprehension on this score will, it should seem, be dissipated.

III. Objection 3d. Remoteness of the convicts from their respective desired abodes, at the time of their discharge.

"Answer 1. Merely for the purpose of facilitating, on the part of the prisoners after their discharge, the return to their places of birth or subsequent settlement, in the open mode on the large scale, it would hardly, I presume, be deemed worth while so much as to build one additional Panopticon as above, much less, as in the close mode upon the small scale, to establish, in each county, or set of associated counties, a Penitentiary House or improved prison, on any other plan or plans. On this occasion, the object ultimately and intrinsically aimed at, would be, I suppose, not the birthplace of each person, nor yet his place of last settlement as such, but the place, wherever it were, of his choice. But, take either of those places of presumed preference, the stain upon his character considered, it might not less probably be the spot, that, of all others, he would be the most averse, than that which he would be most desirous, to fix upon for his residence.

2. The subsidiary establishment, which, under the Panopticon plan, the governor would stand bound to provide for the purpose of making provision for all such as chose to accept of it, has for its basis the supposed non-existence of any such place of former abode, or the unwillingness to fix in it: and the least that this provision does is, to remove from the ground of necessity to that of mere inclination, the demand for means of conveyance to any other spot.

3. Whatsoever be, in preference to employment in the above-mentioned subsidiary establishment, the object of each man's desire, that portion of the earnings of his whole term, which by the contract is secured to him, must be small indeed, if it does not afford him ample means of gratifying such desire.

4. If after all, it were deemed necessary, that to each such discharged convict means of conveyance to the place of his choice, whatever it be, should be afforded at the public charge, a mode beyond comparison less expensive, than providing, though it were no more than a single prison, in this sole view, would be the putting into his pocket a sum of money, under the expectation of its being applied to this purpose. But, as the ascertaining, upon any satisfactory evidence, the spot really desired, would be plainly impossible, the spot assumed could be no other than the spot most distant from the Penitentiary House in question; for, as that most distant spot is the spot that would command most money, that would of course be the declared spot of each man's choice.

But even this maximum—meaning the annual sum of all these maximums—would be a trifle, in comparison of the expense of an additional prison, to be built and kept up on purpose. As to conveyance, the means of loco-motion derived by each man from the bounty of nature, would for this purpose be, I presume, regarded as sufficient: of the maximum in question, the expense would therefore be neither more nor less, than the supposed necessary expense of subsistence, during a journey begun, continued, and ended, in the pedestrian mode.

IV. Objection 4th. Inordinate expense of conveying the convicts from the place of conviction to the place of punishment.

Answer. Supposing the convicts to be conveyed from the several Assize and Quarter Session towns to the metropolis, the expense (it must be acknowledged) could not but be greater than it would be, upon the supposition of a plurality of Panopticons, of which, the number being determined by the largeness of the scale, the situations should be exclusively adapted to this one purpose: say one allotted to each of the three points of the compass—east, north, and west. But—

1. Suppose, that in addition to the one London Panopticon, only two such country receptacles were required,—place these two in any two of the three above-mentioned points of the compass, to the exclusion of the third,—in the east and north only—or in the east and west only—or in the west and north only,—it seems questionable whether any such saving as supposed, even to any the minutest amount, would really take place.

2. Even supposing each of those three points of the compass to have its Panopticon, and thence, in respect of length of journeys and magnitude of travelling expenses, a corresponding saving produced, the advantage produced on this score, would, on calculation, be found (I am inclined to think) so small, as to go but a very little way towards counteracting the disadvantage already indicated as having place, on the more important score, above mentioned.

"Being, as to a more or less considerable portion of it, unavoidable, we have here an expense which as to so much cannot be saved. But that which may be done, and in point of justice (it should seem) ought to be done, is, to equalize it:—to equalize it, I mean, in such sort, that upon a county, the Assize or Quarter-Session town of which is more distant than that of another county from the place of permanent confinement, man for man, the burthen of conveyance may not, on that account, be rendered, or left to be, the heavier, in its pressure on the first-mentioned county, viz. in the proportion of the distance.

"Now as to the mode of equalization. On the contract plan, whosoever carries on the management of that Panopticon receptacle which is the common reservoir for the convicts of all the several counties in question, in his contract it might be made a condition, that, for a sum certain, he should take upon him the conveyance of the convicts from all the several Assize towns and Quarter-Session towns in the district:—for which purpose, an average would of course be taken, viz. by taking the sum of the distances, and dividing it by the number of the towns:—charge of conveyance, so much per mile.

"V. Objection 5th. Supposed unsuitableness of the fund, upon which, on this plan, the expense of maintenance, with or without the expense of conveyance, would be to be charged.

"To this objection two answers present themselves:

"I. That, for the expense in question, the fund in question is not an unsuitable one: but, on the contrary, a more suitable one, than the fund upon which it would, in the other case, be charged.

"II. That, supposing the rival fund a more suitable one, there would be no difficulty in transferring the expense to that rival fund.

"I. First then, the proposed fund is not an unsuitable one.

"1. The proposed is the common national fund. It is the same fund, on which the expense is charged, in the instance of all that portion of the convict population which is sent to colonize. It is the same fund, on which the expense is charged, in the instance of all that portion of the same population which is consigned to the hulks.

"If, as yet, of that portion which has hitherto been consigned to prisons,—to improved or not improved prisons,—the expense has hitherto been charged on the counties, that is on the contributors to the poor rates, the disposition thus made, had, I should suppose, for its cause,—not any such opinion, as that the poor rates constituted a fund more suitable than the national fund, but

merely this circumstance, viz. that the poor rates of each county constituted the only fund, out of which it was possible to obtain money for defraying the expense of the sort of prison in question;—viz. a prison situate within the county, and appropriated to the use of that county, to the exclusion of every other part of the kingdom.

"To save the trouble and responsibility of making provision, at the charge of the national fund, for an expenditure to a certain amount, a public man would hardly, I should suppose, be desirous of imposing upon this or that class of his fellow-subjects, such as the contributors to the poor rates, an expense, for example, of double that amount.

"But my calculation, as well as my expectations, will have greatly indeed deceived me, should the difference in point of expense between the open mode upon a large scale, and the close mode upon a small scale, turn out to be as little as to the amount of two to one to the disadvantage of the small scale.

"In the case of poor-houses, in the tract entitled 'Pauper Management improved, &c.,' published in Young's Annals of Agriculture, in p. 43, [Works, vol. viii., p. 378,] may be seen a calculation, made by a professional and official hand, in which, under the head of construction, for a system of poor-houses on that small scale which then was and actually is in practice in the Suffolk poor-houses, the expense for all England being £10,275,250 money of that time, the expense of the central-inspection plan, on the scale of 2,000 inhabitants to a house, is stated at no more than £2,357,000; considerably less than a fourth part;—amount of saving, 7,918,250:—and upon the official establishment, (an annually recurring expense,) the amount of the annual saving is therein stated at £408,131 5s.—ditto multiplied by 20, (to bring it, like the other expense, to principal money,) 8,162,625.—Number of persons maintained in each such supposed Panopticon poor-house, 2,000: being the exact number of the persons for whom, in the character of prisoners, above eleven years ago, viz., on the 25th of March, 1800, as stated in a former letter of mine now lying before the Committee, I was ordered to prepare.

"This is the case of poor-houses: and, both being on the Panopticon plan, so far as concerns the influence of magnitude of scale upon expense, no difference will be found between the case of poor-houses and the case of prisons.

"II. But, secondly, supposing the determination should be taken, to charge on the poor-rate fund this third part of that general head of expense, the convict expense, of which the two other thirds are charged on the national fund, on this supposition the transference might without difficulty be made. The average numbers of the convicts, which, for a certain number of years back, the several counties have respectively been in the habit of furnishing, being taken, those numbers would serve for expressing the relative sums with which each such county might annually be charged, towards the expense of the common Panopticon or Panopticons, the station of which is supposed to be in the metropolis: I mean the Panopticons serving in common for the maintenance of the aggregate body of the convicts receivable from those several counties.

"But, any such number as 2,000, would it not (I hear it asked) be an unwieldy number? too unwieldy for good management? Oh yes; on every ordinary plan, too unwieldy by a great deal. Nine hundred was the number of the prisoners, that, on the original and supposed highly-finished Penitentiary plan, as per 19 G. 3, c. 74, were to have been confined in the town that was to have been built for that purpose at Battersea Rise: and, as to houses, nine hundred, (being the number of separate houses, which, over and above such as were to be occupied in common, were to have been included in that town,) was assuredly too great a number for good management: two thousand, consequently, in a much greater degree too great.

"On every as yet exemplified plan of construction and management, the natural and naturally prevalent appre-

hension of unwieldiness has, therefore, very just grounds to stand upon.

"But upon the Panopticon principle, whether it be for paupers or for convicts, for free and innocent men or for prisoners, though the number of the inhabitants be 2,000, the house is but one: and that one house is capable of being pervaded in all directions, pervaded by a single glance, and without so much as a change of posture.

"Of the difficulties which, upon any ordinary plan of construction, for want of that source of simplification, attends the business of management, even in the case of a poor-house, and of a moderate size, an exemplification may be seen in Pauper Management improved, p. 43, [Works, vol. viii., p. 378;] in Panopticon, Letter VI., and in various parts of the postscript; and, in the case of a prison, in the instance of several American prisons, in the tract intituled Panopticon *versus* New South Wales, Letter II. pages from 54 to 61 [Works, vol. iv., p. 238–240.]—I have the honour to be, &c.,

"JEREMY BENTHAM.

"*George Holford, Esq.*,
"*Chairman of the*
"*Committee on Penitentiary Houses.*"

In a communication addressed to a noble Lord—probably Lord Sidmouth—Bentham combated the arguments of the Committee. From an impression of the letter made by a copying machine, I extract the following passages, omitting a portion of the argument addressed to the private ear and understanding of the recipient of the letter, and bearing on a view of the arrangements which is supposed to have influenced the Committee in their decision, but is not referred to in the substance of their report:—

"OBJECTIONS TO THE MAKING EXPERIMENT OF MR BENTHAM'S PANOPTICON PLAN OBVIATED—VIZ., PARTLY BY ANSWERS, PARTLY BY FRESH OFFERS.

"OBJECTION I.—You will overwork them, (it has been said;)—you will underfeed them, (those by the underfeeding of whom there is anything to be gained;)—you will overfeed them, (those by the overfeeding of whom there is anything to be gained;)—you will pamper them with luxuries;—you will work them, so that you will not leave time for their receiving any sufficient religious and moral instruction.

"*Answer* 1.—No tolerably intelligent man, howsoever selfishly disposed, would do so in my place. This is what I had pleased myself with the thoughts of having made tolerably clear, and used to be considered as having done so—viz., in and by the Panopticon Book, herewith submitted to your Lordship, Part II., sect. 2, entituled, 'Management, why by Contract:' from which place honourable gentlemen have taken all their objections, forgetting to say anything about the answers.

"*Answer* 2.—As to underfeeding them, by terms of the contract I stand bound to give to each man as much as he can eat.

"As to luxuries, I really do not understand what it is that can, so it be paid for, be stated as a *pernicious* luxury, unless it be fermented liquors, which by the contract, at my own solicitation, I stand precluded from giving admittance to, and with such securities against contravention as had never before been so much as imagined.

"*Offer.*—But if any honourable gentleman in whose view of the matter an *Index expurgatorius* of meats and drinks would, in the situation in question, be an article seriously subservient either to religion or morality, will be pleased to frame one, and obtain the requisite orders, I am ready to pledge myself for its being inviolably observed.

"*Answer* 3.—As to the neglecting their religious and moral instruction, I should forfeit all my pledges, I should incur reproach, by such neglect, and I could never get anything by it: for I could not work them on a Sunday without a positive breach of the law of the land, such as to persons in abundance besides the prisoners themselves could not but be of the utmost notoriety.

"*Answer* 4.—I would humbly entreat your Lordship's perusal for at least that

section, together with the antecedent one, entituled, *Leading Positions:* the rather as being applicable to Poor-house as well as Prisoner management.

"*Answer* 5.—My brother and I had a favourite Sunday plan for the combining religious edification with public inspection, and the most perfect and universal facility of complaint: and the architectural design was in a most striking manner adapted to it, as shown in the models, which were seen by members of the Upper House by dozens, and by those of the Lower House by scores.

"Ere I could have suffered that feature of the management to fall into neglect, my character must have been completely forfeited.

"*Offer* 2.—*Answer* 6.—Taking an unknown—taking an average man, were I to give it as my opinion that he would conduct the business as much for the advantage either of the public or the prisoner, for a salary, or without any pecuniary remuneration, as upon the terms of the contract proposed by me, I should utter a gross untruth. But after the perusal of these two sections, should this matter present itself to your Lordship's mind in a different light, to cut up all such objections by the roots, there shall be an end of the contract; I would conduct the management on account of the public purse without a farthing's-worth of pecuniary profit in any shape, direct or indirect;—keeping and regularly delivering in accounts upon the plan indicated in my work, intituled, Pauper Management, (herewith submitted,) with any additions or other amendments that may be prescribed to me.

"OBJECTION II.—Under your contract you were to have had no fewer than 1000 prisoners: all worked under your direction and for your advantage. This is too great a power to be trusted in any individual hand.

"*Answer* 1.—It is no greater nor other power than what by the law of the land every master has over his apprentice.

"As to the number, so far from being increased, the power, as to all purposes of abuse, is lessened by it. Except his own particular relatives or other friends, when he is fortunate enough to have any, an apprentice has no person engaged by any special tie or interest to look to him with a protecting eye. My prisoners would, by the common and most obvious tie of interest, as well as bond of sympathy, stand engaged to afford to one another this as well as whatsoever other assistance could be afforded against oppression in every shape, at the hands of the common master; and as to persons without doors, each would accordingly have so many friends in the friends of every other.

"*Answer* 2.—In so far as concerns sinister profit, this objection would, together with the preceding ones, be cut up by the roots by the giving up of the contracts as above.

"*Answer* 3.—Independently of all consideration of sinister profit, and danger of abuse on that score, can it be that the magnitude of the power, merely in respect of the number of persons subjected to it, is considered as being so great as to constitute of itself an objection, and that a peremptory one? A colonel of a regiment has as much or more.

"*Answer* 4.—If, numbers being the same, this objection, taken from a supposed excess of power, were conclusive against the Panopticon plan, how much more ought it to be against the new proposed Non-Panopticon plan!

"Under the Panopticon plan, behold the management in the hand of an unseated, unofficed, unconnected, insulated individual, whose blameless life, known to have been for little less than half-a-century devoted to a course of unpaid, yet unremitted, howsoever fruitless, toil, in the service of mankind, has not been able to preserve his rights from being an object of neglect, and himself an object of silent oppression to every Administration for these last eighteen years.

"Under the non-Panopticon plan, the management in the hands of a detachment of the Ministry, rendering no account but to their assured protectors —the body from which they have been detached. Who is there who does not

know, or will think it worth while to affect not to know, that in all these cases the whole power is in the hands of some one individual, in whom the confidence is reposed and those of an assortment of colleagues, who to each other are a tower of defence: the use in this respect is, by dividing, and by dividing, and dissipating the responsibility, to increase that power which in demonstration they are employed to reduce?

"What is very true, is, that if the prison were a den of devils, so that no mischief that were done in it for the benefit of the tyrant, could be known, the security afforded by his being liable to be dismissed for it if known, could not be very effective.

"But that this should be urged as an objection against the only plan which ever had for its declared object the maximum of publicity, and in proof of the superior wisdom of a plan in which neither in that nor indeed in any degree publicity is so much as professed, seems not very consistent.

"In the one case, one tyrant devil working in impenetrable darkness; in the other a company of guardian angels,—such is the supposition on which, though not declared, everything in the non-Panopticon plan is all along grounded.

"OBJECTION III.—You may profess to desire inspection, and to court gratuitous inspectors; but in these professions of yours, either you are not sincere, or if you are, you will not long be so; and though you should be ever so much so, you might as well be otherwise, for nobody will come.

"*Answer* 1.—On this head at least, as to my sincerity, present, and future probable, after what I have said in my Panopticon book, (to compare minute with great, obscure with illustrious,) with submission, it would be less unreasonable to impute to your Lordship a desire to see Protestantism extirpated and Catholicism towering in its place, than to impute to me the possibility of harbouring any such idea as that of shrinking from inspection. Your Lordship has not professed any such invention as that of an engine for the universalising of Protestantism in the Christian world. My brother and I have, for these twenty years and more, professed to have invented an engine for the universalising of inspection in a Penitentiary house.

"*Answer* 2: *Offer* 3.—True it is, that if, in numbers sufficient for the purpose, after all that were done to invite them, people would not come,—let this be supposed, all my sincerity and all the exertions of which it can be productive, would be to no purpose. Well, then, my lord, if my schemes for making people come should all fail, insomuch that, after all, people do not come,—in short, if, in the opinion of the appropriate judges (say the king in council) although no abuse actually appears, yet, for anything that appears to the contrary, there may have been abuse,—then under this case let the experiment, howsoever free from blame on any part, be pronounced to have failed; and on that ground let me be dismissed, and if such be the pleasure of the said judges, let my said supposed inspection plan be put aside; and for remedy, let the plan in which general inspection is not aimed at or so much as professed, be set up in its stead.

"OBJECTION IV.—Well, Sir, if you please, you yourself shall be a well-meaning man; and not only for a moment, but as long as you live: and for the purpose of the argument, even under so corruptive a plan as yours is, an honest manager: all this will not make your plan a good one. You live to commence, and, for a time, carry on the management: be it so. Sooner or later however, there is an end of you: and then, whatsoever be the security afforded by your personal character, there is an end of it.

"*Answer* 1.—If, before the building is finished, I die, there is my brother, on whose plan, if for me and in my lifetime, it will be built: if before that time he dies also, there are others in this town under whose direction a building on this same plan was lately completed, viz. at Petersburg, and the management of a correspondent establishment conducted, and to whom the advantages of it are accordingly well known by expe-

rience: nor for the management would there be any want of persons, to whom the principles of management detailed in the Panopticon book, and in the book entitled *Pauper Management*, (herewith submitted,) are already familiar, and who are perfectly competent to the purpose of applying them to practice.

Answer 2.—If for a moment any such supposition be endurable, as that in my management there can be anything worth copying and preserving, the nature of the case affords as good a security as can be reasonably desired, for its being accordingly copied and preserved.

"Yes, my lord, if I am what I ought to be, such as I am, such will my successors be. My rules, my practice according to these rules, will be public: public as I, and the press and open doors can make them. Being public, what there is good in them will be as so many laws to my successors: or, if they are not so, the fault will lie not in me and my successors, but in your lordship and your successors; whenever to any successor of mine, it happens to swerve from these (by the supposition) good laws, out with *him*.

"True it is, that, by wearing out so many years as have been worn out of a life of which four and sixty are already past, honourable gentlemen have given to this argument of theirs a degree of force, as well as to some other of their arguments and expedients, beyond what I could have wished; and seconded by such treatment as it has been my lot to experience at their hands, and to which, unless stayed by the intrepidity of your lordship's justice, this last measure will have given the crowning stroke, the chances of life and death were certainly in favour of the plan so perseveringly pursued for ridding the powers of high-seated darkness of the incumbrance, for already (as may be seen by the calculation printed in Report 28th of the Finance Committee of 1797-8) it has been my lot to live several years more than according to the Tables I ought to have lived. Yet still, considering the counter-consideration above submitted, this argument will not, I hope, be found to have so far accomplished its purpose, as to be in your lordship's account a conclusive one.

"*Offer* 4.—On the non-Panopticon plan, what the space is that is deemed requisite for the 600 prisoners, I do not know. On the Panopticon plan, in case of necessity, I could make less than half what there is serve for the experiment. On that supposition, should there be also a sufficiency for the non-Panopticon system, the two could be carried on together.

"Here, then, if the honour of honourable gentlemen could be reconciled to the idea, the benefit of competition and emulation, a benefit to which, in some cases, (for example, that of the highest courts of ordinary justice,) no small value has been ascribed, might be given to the service.

"For my own part, in so far as all consideration of the public and the prisoners being put out of the question, I myself am alone concerned, were I to choose my competitors, I know not of any whom I would more gladly choose than the honourable gentlemen with whose company in that quality I should in that case be likely to be honoured. Their desire to be rid of me can scarce be stronger than mine would be to possess in that shape the benefit of their assistance; and though my general character were as noted for insincerity as it may perhaps be for the opposite failing in the present instance, my sincerity would be put sufficiently out of dispute by the observations which, in case of necessity, I should have to make on their Report, and the plan of management which it has served to introduce."

By the Act founded on the Report of the Committee, (see above, p. 106,) the compensation to Bentham was to be fixed by two arbiters, the one chosen by the Treasury, the other by Bentham. On this subject, I find the following from

BENTHAM TO ROMILLY.

"*Q. S. P.*, 27*th November*, 1812.

"DEAR ROMILLY,—Nobody can be more fully or feelingly sensible to any-

thing, than I am to the regard for justice manifested by Mr Vansittart throughout the whole course of this business. *Justice* I call it—*favour* I will not call it; for that would not be to do justice either to his probity or his discernment. What he I perceive is as fully sensible of as myself is,—that if by a Chancellor of the Exchequer, without concert with the individual, the arbitrator to act in a case such as that in question for the public, were to be chosen, arbitration and compensation might in that case be converted into a mere form, since by an arbitrator of *his* choice, nothing could be easier than for a minister in his situation, so to order matters, that of the enacted compensation not a halfpenny would ever find its way into the individual's pocket.

"As to any person to whom the nature and history of the Panopticon plan, from the time when it first found acceptance, and so on through the revolutions it was destined to experience, were *not* more or less known,—you seemed as fully sensible as myself how ill qualified in comparison of one to whom those things *were* thus known, a person so circumstanced would be to form any tolerably well-grounded award.

"As to Mr Rose, in addition to a great part of the knowledge *I* had had of the business, he could not have but had knowledge of a great deal of secret history (of some part of it I received from him some obscure intimations at the time) which it was not permitted to me to know. It was this, added to the confidence which, from his political situation, I could not but presume would be reposed in him by the Treasury, and the hope, that, in his dealings by me, he would be so far mindful of former actings and declarations, as well as of the opinion entertained of the plan and its authors by Mr Pitt and Lord Melville, to whose department the business belonged, as to procure for me some small aliquot part, (which was the utmost I could expect or indeed accept of, and which by the breach of the engagement I have been deprived of,)—it was this that gave birth to the idea of casting myself upon his mercy. From what it has happened to me now and then to hear from A and B, I had reason to presume, that, in respect of general character, his opinion was not unfavourable to me. As to partiality, whether I had anything of that sort to expect from a man, who, when I have met him in the street, as I have every now and then done, has never appeared to know me, may be left to be imagined.

"After disappointment about Mr Rose, the same principle, viz., the wish of having for my judge a person who, to a presumable absence of hostility or ill opinion, as towards myself, and some acquaintance with the history of the transaction, might, from his situation, be to any such purpose as that in question expected to add the qualification of being regarded as a proper person by the Treasury,—led me to *Lord Glenbervie*. But *once* in my life was I ever in any residence of *his*, and that was at Lincoln's Inn some thirty or thirty-five years ago, when he had chambers there. Not within these twenty years has *he* been in any residence of *mine*, except one morning about eighteen years ago, when he brought some company to see the Panopticon *raree*-show. Since that time, I have never met him in the street but it has been matter of doubt with me, whether I was to know him or no.

"Upon your informing me of the disappointment in regard to him, I forget whether I had sufficiently thought of the matter to mention to you any person in particular to mention to Mr Vansittart. What I do remember (if I did not misconceive you) is,—an intimation from you, that you felt a difficulty about suggesting any person to Mr Vansittart without a previous assurance that a proposal from him would find such person already prepared for signifying his willingness to accept it.

"Casting my eyes around, with this instruction before them, I have thought of two persons, viz., *Sir Charles Bunbury*, and *Mr Morton Pitt*. Both of them were in its day well acquainted with Panopticon; and it was that circumstance that pointed them out to me. The names of both of them were (by, or with the approbation of, Mr Holford,

&c., I presume,) put upon the late Penitentiary Committee. From that time to the present, I have not had, with either of them directly or indirectly, any the smallest intercourse. Neither of them on that occasion gave me any signs of life. If there could be any need of it, this circumstance would, I suppose, be regarded as sufficient evidence of the absence of any connexion from which partiality might be to be apprehended, even if in other respects their characters had been such as to admit of any such surmise.

"Should Mr Vansittart approve of *either* of them, *which*, it may be, is to me a matter of entire indifference. Should he indulge me with the option, I would have two strings to my bow; and my first application would be made to the first of them I could get the speech of. With his consent, and with the assurance it would enable me to convey *that* application I could make without difficulty. But, without the power of affording any such assurance, the errand (I make no doubt of your agreeing with me) would be rather an unpromising one; for in that case neither of them could yield to my request without exposing himself to the hazard of knowing himself to be rejected.

"*Mr Moreton Pitt* (I think you informed me) is returned again for Dorsetshire. That being the case, though I suppose he has no house in town, (for I happen to know of his having some time ago parted with the house he had,) some time or other I suppose he will be in town to take his seat. Whether he will or no, is, I suppose, perfectly known to Mr Vansittart. For my part I have not set eyes on him, for I know not how many years,—about ten years ago, I think it is,—that for the last time, I saw him in the street by accident for two or three minutes.

"As to *Sir Charles Bunbury*, on sending, about ten days ago, to his house in town, I learned that he was expected in town, but that at that time no day had been fixed. It is, I think, about two and a half years since I saw him for a few minutes.

"Oh, how grating—how odious to me is this wretched business of *compensation!* Forced, after twenty years of oppression,—forced to join myself to the Baal-peor of blood-suckers, and contribute to the impoverishment of that public, to which in the way of economy, as well as so many other ways, I had such well-grounded assurance of being permitted to render some signal service. Half-a-year's payment of my permanent compensation-annuity was due last Michaelmas; and reduced as I am, I have not yet been able to bring myself to apply for it. Last Sunday fortnight it was that you called on me, and till now I have not been able to drag myself, or to attempt to drag you to this abominable task. If you mention to Mr Vansittart this about the *arbitrator*, will you have the goodness to ask him about the *annuity*, whether a payment on it will now be made; and if not, at once, at what other time, and how I should apply for it? Whether by memorial, or how.

"After all, besides the breach of public faith—than which surely there never was a grosser one—can such a man as Lord Sidmouth, can such a man as Mr Vansittart, bring himself to put the public to an extra expense of £200,000 plus my miserable compensation, only to make a job for Mr H.? To any such supposition my conception finds itself utterly unable to square itself. Yet, if Lord Castlereagh & Co. insist, how can they refuse. What is it that will be done? Nothing. This is what presents itself to my view as the most natural and least improbable result. Panopticon not gone on with, nor the job neither.

"Howsoever canine, is it impossible to the appetite of the enemy to be satisfied by any less expensive means? Accompensation, would it not be more suitable to his case than to mine?—Dear Romilly, yours ever," &c.

* The arbiters finally chosen were Mr John Hullock, on the part of the Treasury; and Mr John Whishaw, on the part of Bentham. They pronounced their award on the 9th July, 1813.

In further illustration of this subject, I conclude with two extracts from the

Twenty-eighth Report of the Finance Committee, (1798.) The one is the Report of the Committee in favour of proceeding with the Panopticon contract: the other is Bentham's evidence before the Committee.

"PROPOSAL FOR A NEW AND LESS EXPENSIVE MODE FOR EMPLOYING AND REFORMING CONVICTS.

"It did not escape your Committee, that Mr Colquhoun, in pointing out the errors of the present mode, speaks of an improved system for the employment of convicts, as one of the chief means by which the expenses of the police are to be diminished.

"Your Committee were therefore induced to inquire whether that gentleman had any particular system in view in making that observation; and they learnt, with considerable satisfaction, that Mr Colquhoun (who appears himself to have submitted a plan to the Secretary of State for this purpose) did allude to a particular system, from which, according to his decided opinion, if adopted and carried into execution, infinite advantages would arise to the public, not only in the diminution of the expense at present incurred, but in the improvement of the morals of the convicts who may be placed under such an establishment; your Committee have therefore annexed to this report a sketch of that plan, contained in a printed paper, intituled, 'A Proposal for a new and less expensive Mode for employing and reforming Convicts.'

"Impressed with the advantages, of which the perusal of the heads of the plan appears to justify the expectation, your Committee were gratified in finding that it had already attracted the attention, and obtained the encouragement of his Majesty's Government.

"That so long ago as the 11th of June 1794, the sum of £2000 had been actually granted to the proposer, Jeremy Bentham, Esquire, under warrant from the Treasury, 'to enable him to make the necessary preparations for the custody of the convicts to be confined in the proposed Penitentiary Houses.'

"That an act of Parliament received the royal assent on the 7th July 1794, 34 Geo. III., c. 84, not only authorizing but requiring the Lords Commissioners of the Treasury, as soon after passing the act as conveniently might be, to fix upon ground therein described, or upon any other convenient and proper spot, within certain limits, for the erection of one or more Penitentiary Houses, and giving the usual compulsive powers for purchasing the ground that should be so chosen.

"That articles of agreement were thereupon drawn up by the Solicitor to the Treasury, and approved by the Attorney and Solicitor General, for the purpose of carrying the proposal into effect, reciprocally binding upon the proposer, and upon the Lords Commissioners of his Majesty's Treasury.

"That, encouraged by these proofs of confidence and approbation, and by these assurances of support, Mr Bentham had proceeded to the performance of his part of the contract, and had incurred an expense of many thousand pounds of his own money, in addition to that advanced by the Treasury, in consequence of the preparations which he had made; but that his further progress has been impeded, and the contract has remained without execution, from difficulties in regard to obtaining a spot of ground proper for the purpose.

"Your Committee, however, are informed by the Lords Commissioners of his Majesty's Treasury, that they have always felt a disposition to carry into effect the contract intended to be executed, whenever a proper spot of ground could be obtained; and that the contract intended to have been entered into has been delayed, because an essential part of such contract was to be the giving possession of the land upon which the Penitentiary House was to be erected; but that they are ready to enter into the contract whenever the preliminary difficulties relative to the ground are removed.

"Upon further inquiry, your Committee find that a spot has been pointed out, which appears well adapted to the object, and against the appropriation of which to a purpose so interesting to the public no solid objection occurs; and

that the preliminary difficulties above alluded to have arisen from the rules and orders of the House relative to bills of enclosure, which are supposed to be applicable to the ground in question. The difficulty is, therefore, one which may be easily removed before the next Session of Parliament; and your Committee were glad to receive from Mr Bentham himself the assurance of his perfect readiness to proceed with his part of the business.

"It is, in the judgment of your Committee, no small recommendation of the plan alluded to, that the contractor proposes to employ the prisoners on his own account, receiving a proportionably smaller sum from the public for their maintenance.

"But it must be noticed and remembered, that the great and important advantages which distinguish that plan from any other which has been hitherto suggested, consist in the certain employment and industrious livelihood which it ensures to those whose terms of confinement are expired; in the responsibility which the contractor proposes to take upon himself for the future good behaviour of the criminals intrusted to his care, even when they shall no longer be under his control; in the publicity which is meant to be given to the whole conduct and effect of the establishment, moral, medical, and economical, as well by an Annual Report of its state and proceedings, as by that constant facility of inspection which will in an unusual manner be afforded by the very form and construction of the building, upon which the prompt and easy exercise of the superintending powers of the governor himself principally depends.

"Your Committee are led to dwell the more on the importance of these advantages, when they contemplate the accounts which have been furnished to them of the periods of enlargement of the several convicts now confined in the hulks, to which they desire to direct the most serious attention of the House, bearing in mind, as they do, the evidence given by an experienced magistrate of the pernicious effects produced upon the unfortunate persons who are confined in these seminaries of vice; recollecting, too, not only that New South Wales is at the present moment fully supplied, but that it affords no security for the future good behaviour of those who, having outlived the periods of their sentences, may return again to afflict the society from which they have been separated.

"It appears, that of 1534 convicts on board the hulks, on the 5th of June 1798, 93 will be enlarged in this year, 346 in the next, and 1411 within the period of seven years.*

"If a similar progress be made in the enlargement of those who are still confined in the different gaols, the whole number of felons that will be turned loose on the public, will amount to 1791, a discharge at the rate of 254 per annum, continuing for a period of seven years.

"Of the 2934 unemancipated and unsettled convicts existing in New South Wales and Norfolk Island, on the 22d of October 1796, it is probable from a consideration of the years in which they have been severally sent thither, that the periods of discharge of a still greater number will have expired in the same seven years; and if it could be supposed that the whole or the greater part would endeavour to avail themselves of that circumstance to return to the scene of their former delinquency, the prospect would indeed be dreadful, when viewed through the medium of the experience which the magistracy of this metropolis has already had of the effect of such returns.

"Mr Colquhoun's testimony on this point is, That all of the delinquents that have returned from these settlements, who have come within his knowledge, are either at this moment thieves on the town, or have been executed for new offences.

"Your Committee therefore trust, that no further delay will interfere with the execution of the contract above mentioned, not only because any such delay would add to the loss already sustained

* There is here an evident misprint or miscalculation in the Report.—*Ed.*

by the contractor, and thereby enlarge his claim to compensation, but because it would deprive the public for a longer time of the benefits of a plan which they cannot but look to as likely to be productive of the most essential advantage, both in point of Economy and police. A mode of compensation has indeed been proposed by the contractor, which, so far as it goes, has the advantage of not being attended with any expense to the public, and to which it does not appear to your Committee that any substantial objection can be made."

"*June* 23, 1798.

"EXAMINATION OF JEREMY BENTHAM, Esquire.

"*Question.*—The draught of an intended contract between the Commissioners of the Treasury and yourself, for the confining, maintaining, and employing convicts in Penitentiary Houses to be erected by you, being before the Committee; and it appearing from documents that have been laid before the Committee, that in the year 1794, a sum of £2000 was advanced to you to enable you to make preparations relative to this business, you are desired to state whether you have made any such preparations, and whether you are now in readiness to sign and carry into execution such intended contract.

"*Answer.*—I am in perfect readiness to do my part in the business, and have been so little less than five years. In consequence of a proposal submitted by me in March 1792, and approved of, matters were so far advanced, that in July 1793 I was twice called upon, and both times in the same terms, to 'take my arrangements.' I had at that time, in conjunction with my brother, Brigadier-general Bentham, expended some thousand pounds in bringing to maturity a system of inventions of his for executing by machinery, and consequently as to the greater part of the business without the aid either of dexterity or good-will, the most considerable branches of wood-work, besides many branches of stone-work and metal-work. Upon the repetition of the above orders, in concert with my brother, I took my arrangements without delay. The system was in such forwardness that we were upon the look-out for a steam-engine. Human labour, to be extracted from a class of persons, on whose part neither dexterity nor good-will were to be reckoned upon, was now substituted to the steam-engine, and the system of contrivance underwent a correspondent change. Being in daily expectation of receiving the sums stipulated for in the intended contract, (the heads of which were settled in what was then the proper office early in August 1793,) and the demand I had made of the spot I had found appropriated to the Penitentiary Establishment, (an appropriation since confirmed by the Statute of the 7th July, 1794,) having been acceded to by a memorandum in my possession in the hand of the Chancellor of the Exchequer, and being under the necessity of keeping the works going on, under pain of suffering the dispersion of a collection of workmen, who in that event would not for a length of time, if ever, be to be replaced, I made shift to keep up my advances under circumstances of great difficulty and inconvenience; and it was in consequence of representations to the above effect that the imprest in question was made to me. In the meantime, cast-iron work had been ordered by me for the frame of the intended building to the amount of several thousand pounds, of which order as much was executed as came to within a hundred pounds of the neat produce of the nominal £2000 advanced to me as above. My expenditure, over and above the £2000 received, does not now, if I include interest, amount to so little as £9000. Of the fruit of this expenditure, some part would now be lost, although the Penitentiary establishment were at length to be set on foot; and if it were not, almost the whole. It is too late now to revert back to the steam-engine; the capital which was to have set it a-going is gone; my brother's whole time is engrossed by his official situation; and at my time of life, and after my experiences, it is now too late for me to return to a manufacturing speculation, into

which no prospect of ordinary advantage would even then have tempted me.

"*Question 2d.*—Do the advances you speak of make any and what difference in the terms you expect?—In the event of the contract's being carried into execution, or in the opposite event, do you expect anything, and what, by way of indemnification on that score?

"*Answer.*—In circumstances such as mine, it is natural enough, I believe, for the idea of indemnification to present itself: but as often as I have set myself to consider in what shape, by what persons, and in what manner it was to be brought about, the appearance of feasibility has seemed to desert it altogether. There was a time, if my memory does not deceive me, when the idea of eventual indemnification used now and then to be alluded to on the other side as a matter of course: but this was long ago; and the damage, which might at that time present itself as lying within compass, has since received such an increase, that its very magnitude may, by this time, be considered as having formed a bar to indemnification. An issue which I have for some time been training myself to the expectation of is, that dispositions will remain; that difficulties will accumulate; that this will go on till all recollections are at an end; and that thus execution and indemnification for non-execution will glide away together. After the difficulties I have found in obtaining attention for measures which I could speak of boldly as beneficial to the public, it may be imagined whether I can have confidence enough left for coming forward with claims of a tendency such as I could not myself represent as otherwise than purely burthensome: And after having, for such a length of time, been permitted to entertain prospects such as those delineated in the plan which the Committee have before them, it is easier to conceive than express the reluctance with which, were it even in my power, I should see myself fastened as a dead-weight upon the public I had hoped to serve. As to terms, mine is not a situation to make terms. Were I to say, 'I cannot do so and so upon such terms,' the answer might be, 'Then it cannot be done at all.'

"Turning aside from what some in my situation might call 'Justice;' considering what, if anything, in the way of compensation, retained a chance of being found practicable, an idea that occurred to me not long ago was, that, in the event of the Penitentiary system's being proceeded with, there might perhaps be no great objection to the turning over the convicts to me a little earlier than would otherwise be done, to be provided for under the present plan, until the Penitentiary House should be in readiness for their reception. As, since the passing of the act of 7th July, 1794, it was impossible that the persons now occupying the situation in question should not have long ago made up their minds to the parting with it—as they have already retained it so much longer than they could have expected, while I have been kept out of my expected situation so much longer than I had reason to apprehend—as under such circumstances the reputation of the persons in question could not suffer the smallest prejudice, from a transfer made and declared to be made for no other than such a cause—the idea seemed to me to be free from objection on that score. A step would thus be taken, and might be taken immediately, (for no more than three months' warning is requisite,) which would evidently and declaredly be a step, and that a decisive one, towards the establishment of the Penitentiary system: the opportunity I should have of becoming acquainted with the characters I should have to deal with would be accelerated, and the transition would thus be smoother in many respects, than if persons as well as local situation were at the same time to be comprehended in the change. This idea I have accordingly ventured to suggest, and though it has not yet been complied with, the reception given to it was not altogether a discouraging one.

"As to the annual allowance per head, since the approbation given to my demand of £12, (which was in July 1793,) the allowance to the present contractors on the Hulk plan has through-

out been raised a penny a-day per head, amounting by the year to £1, 10s. 5d.; the rise in the price of provisions having been the evident ground of this allowance, the same indemnification would not, I suppose, be thought unreasonable in my case.*

" *Question* 3.—Do you think you should now be able to exhibit vouchers for, or distinct statements of, the expenditure of the £9000 you speak of?

" *Answer.*—I have taken care to preserve vouchers for the money expended in materials for the building itself, to an amount more than equal to what I have received as above; and for the rest, I should think that satisfactory vouchers might be collected, although, the money being my own, and no conception entertained of any occasion for accounting to or with any body on the subject, I had no reason for keeping vouchers as such. In March 1793, on my applying for the £2000, which I did through Mr Nepean, (then Under Secretary in the Home Department,) my brother delivered or produced to that gentleman a hasty sketch of an account, drawn up in obedience to a suggestion made at the moment for that purpose. At that early stage of the concern it contained (I remember) articles to the amount of above £4600, after which it was needless to look out for more. Upwards of £500 of it was for patents, which are become of so old a date, that before I could now make any advantage of the inventions in the proposed Penitentiary house, more than half the terms would be expired.

" After a variety of unsuccessful attempts, in which no inconsiderable part of the money was expended, we had already succeeded in executing by machinery, planing-work; sawing-work, from large timber down to veneers of an unexampled fineness; wheel-work, in the small and in the great; window-sashes (the greater part of the workmanship, and the remainder nearly finished;) sawing and polishing of stone; besides a variety of branches of inferior account; and the number was increasing every day.

" *Question* 4.—What ground is it now proposed should be purchased for the purpose of the establishment?

" *Answer.*—A part of Tothill Fields, together with such addition from the grounds adjacent (and which may be purchased under the existing Act) as shall be necessary to make up the quantity allotted to the establishment by that act.

" *Question* 5.—The Committee have understood that certain difficulties have attended the choice of the spot;—should these difficulties prove unsurmountable in the instance of Tothill Fields, is there any other spot in contemplation that you think would answer the purpose?

" *Answer.*—I know of no other spot whatever that would answer the purpose in any tolerable degree, and at the same time afford anything near an equal prospect of seeing the choice finally approved. This is the last of four places, each of which at the outset afforded me prospects, which in the three preceding instances proved delusive.

" Nothing could be more decided than the approbation bestowed upon this spot upon the very first mention of it. Legal obstacles, with the existence of which nobody is chargeable, have been unavoidably productive of a part of the delays. As far as I may be permitted to judge, the great aversion entertained to the employing in the present case, or applying for, the compulsive powers regularly granted, as often as land is to be purchased for a public purpose, is, and has been throughout, the only source of difficulty, at least at the fountain-head. I am satisfied in my own mind, that the business would have been despatched near five years ago, if land could have been found that belonged to nobody, and was in no neighbourhood. My own aversion to such powers is not inferior, and would be productive of the same effects, if I saw by what possible means the business could be done upon less unpleasant terms.

" My great comfort as well as my great encouragement at the outset of this business was, the observation of a spot, in the instance of which, as it seemed to me, these difficulties had already been overcome. It was upon the ground of

an Act of Parliament, and of a decision that had been given upon it by a tribunal, of which the twelve judges formed a part—it was upon this ground, coupled with other assurances, that I proceeded at the outset of the business; it was upon the faith of another Act of Parliament, which the Committee have before them, (I mean that of the 7th July, 1794,) that I persevered in it. Had it been said to me in those days, these powers are employed in other cases, but they will not be in yours, my property would have remained undissipated, and the Committee would not have had this trouble.

"Tothill Fields possesses two properties essentially necessary to the execution of my plan; vicinity to the metropolis, and vicinity to water-carriage: In my manufactory, raw materials and finished work are both of the bulkiest kind; and a prompt communication with the market is indispensable. Vicinity to the metropolis is a condition much insisted upon by the original planners of the penitentiary system, (and most of all by Howard,) for the purposes of example and inspection. If a place could exist, of which it could be said that it was in no neighbourhood, it would be Tothill Fields. Two prisons, and four or five poor-houses of different sorts already in existence, will surely be sufficient to shut the door against objections on the score of neighbourhood. I can say from measurement, that no house of an account superior to a tradesman's or a public-house stands within a quarter of a mile of the intended building.

"The persons principally interested in the character of proprietors have been applied to with that respect and reverence which is their due: a formal or decided consent is more than I have to boast of; but symptoms of acquiescence were manifested, and none of opposition: the opinion of professional advisers was declaredly in favour of the measure.

"To speak with confidence of the disposition of several thousand inhabitants, possessing rather a nominal than a real interest in the character of commoners, will not be expected of an individual by whom they have not been canvassed; but, as far as assurances can be depended upon, from a quarter the best qualified of any for affording such assurances, assistance much more likely than opposition would be to be expected from that source. They had authentic notice long ago, (though from another quarter,) and not the smallest symptom of opposition was then manifested, nor has been since.

AN

ANALYTICAL INDEX

TO THE

WORKS OF JEREMY BENTHAM,

AND TO THE

MEMOIRS AND CORRESPONDENCE.

For the accuracy and completeness of the following Index, the writer of the Introduction to the Study of the Works is responsible. It has been prepared on the analytical principle: that is to say, under each department an attempt has been made to give, so far as it was practicable within the assigned space, an outline of what the author has said on the subject. In some instances it would have been impossible to convey a notion of the train of reasoning followed by the author without using his own words; and in these no attempt has been made to do more than indicate the place where the subject is discussed. In other cases, where it has appeared to the compiler that an intelligible analysis has been made, he may have failed, in his necessarily abbreviated sentences, in embodying the meaning of the original; but defects of this description are indigenous to Indexes in general. It will not always happen that the head under which mention may be found made of a subject is that under which it is analyzed; for it has been thought expedient to enter the same subject under *all* the heads which occurred to the compiler as words under which the reader might search for it, while the analysis is generally given under *one* only. Thus, the Provisions for the Courts of Law, in the Constitutional Code, which have the title "Judiciary collectively," are analyzed under that head; while a reference is likewise made to them under the words "Courts," "Judges," "Tribunals," &c.; and references to subdivisions of the analysis are made under other heads. In a purely technical work—such as a law-book, the Index may reject whatever is not purely analytical, because the professional reader will at once look for what he wants under its appropriate head: on the other hand, it seems needless to state the reasons why an Index to a collection of works, embracing, like the present, a variety of subjects, should contain as many facilities as possible for discovering what subjects are discussed, and where. It often happens that there is a long train of entries under the same head, scattered over a variety of portions of the works. In arranging these consecutively, the system which seemed most appropriate to each case is adopted: sometimes they are ranged in the order of succession of volume and page; at others in what appeared to be their order of connexion with each other.

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